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ONTARIO

# REVISED STATUTES OF ONTARIO, 1970

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL  
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED  
UNDER THE AUTHORITY OF THE STATUTES  
REVISION ACT, 1968-69

IN SIX VOLUMES

## VOL. 1

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER





# REVISED STATUTES OF ONTARIO, 1970

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## CHAPTER 1

**The Abandoned Orchards Act****1.—(1) In this Act,**Interpre-  
tation

- (a) “abandoned orchard” means an orchard,
  - (i) the fruit of which has not been produced for sale for human consumption for two consecutive growing seasons, and
  - (ii) that has been designated by a certificate of the Provincial Entomologist as a neglected orchard;
- (b) “Director” means the Director appointed under this Act;
- (c) “fruit tree disease” means any disease or injury of a fruit tree that is caused by an insect, virus, fungus, bacterium or other organism;
- (d) “fruit trees” means,
  - (i) apple trees,
  - (ii) cherry trees,
  - (iii) grape vines,
  - (iv) peach trees,
  - (v) pear trees,
  - (vi) plum trees, and
  - (vii) such other fruit-producing trees, shrubs or vines as are designated in the regulations;
- (e) “inspector” means an inspector appointed under this Act;
- (f) “orchard” means an area of land of at least one-half acre on which there are at least thirteen fruit trees and on which the number of fruit trees bears a proportion to the area of at least twenty-six fruit trees per acre;
- (g) “owner” means the person shown as the owner of the property on the last revised assessment roll of the municipality in which the property is located;
- (h) “Provincial Entomologist” means the Provincial Entomologist for Orchards appointed under this Act;
- (i) “regulations” means the regulations made under this Act.

Application (2) This Act applies only to orchards any part of which is closer than 300 yards to an orchard that is used for the commercial production of fruit and that does not come within the application of section 4. 1966, c. 1, s. 1.

Administration of Act **2.** The Lieutenant Governor in Council may appoint a Director to administer this Act, and may appoint a Provincial Entomologist for Orchards and one or more inspectors who shall carry out such duties as are assigned to them by this Act or the regulations or by the Director. 1966, c. 1, s. 2.

Inspection **3.**—(1) An inspector or the Provincial Entomologist may, between sunrise and sunset, for the purpose of making an inspection, enter any orchard or any premises in which he has reason to believe there is an orchard.

Idem (2) No person shall hinder or obstruct an inspector or the Provincial Entomologist in the course of his duties or furnish him with false information or refuse to furnish him with information. 1966, c. 1, s. 3.

Designation of neglected orchards **4.**—(1) Where, on the basis of his own inspection or on the basis of a report from an inspector, the Provincial Entomologist is of the opinion that a majority of the fruit trees in an orchard,

- (a) are infected with any fruit tree disease;
- (b) are affected by such other conditions as are designated in the regulations;
- (c) have not been properly pruned, sprayed or treated with chemicals; or
- (d) have not otherwise been properly maintained,

so as to seriously affect at that time the ability of the fruit trees in the orchard to produce fruit commercially, he may designate the orchard, by a certificate, as a neglected orchard.

Service of certificate (2) Every certificate shall be served,

- (a) upon the owner by personal service or by mailing a copy of the certificate by prepaid mail addressed to the owner at his address shown on the last revised assessment roll; and
- (b) after effecting service under clause *a*, by posting a copy of the certificate in a conspicuous place in the orchard to which the certificate applies. 1966, c. 1, s. 4.

Revocation of certificate **5.** The Provincial Entomologist may, at any time, revoke a certificate made under section 4. 1966, c. 1, s. 5.

Appeal **6.**—(1) Where the owner of or any person having an interest in an orchard considers himself aggrieved by a certificate of the



Provincial Entomologist designating the orchard as a neglected orchard under section 4, he may appeal against the certificate by delivering a notice of appeal to the Provincial Entomologist within fifteen days after service of the certificate under clause *b* of subsection 2 of section 4.

(2) Upon receipt of a notice of appeal, the Provincial Entomologist shall, after a hearing, confirm or revoke the certificate appealed against and shall notify the appellant of his decision by prepaid mail. 1966, c. 1, s. 6.

**7.** Every person who is the owner of an abandoned orchard shall destroy, Destruction  
of  
abandoned  
orchards

- (a) all fruit trees in the orchard; and
- (b) such other trees, shrubs or vines, present in the orchard, as are designated in the regulations. 1966, c. 1, s. 7.

**8.—(1)** Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. Penalty

(2) A person who is convicted of a contravention of section 7 is liable on summary conviction to a further fine of \$25 for each day the contravention continues after conviction. 1966, c. 1, s. 8. Idem

**9.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) respecting the issuance and revocation of certificates;
- (b) prescribing the duties of the Director, the Provincial Entomologist and inspectors;
- (c) designating fruit-producing trees, shrubs or vines as fruit trees for the purpose of clause *d* of subsection 1 of section 1;
- (d) designating conditions affecting fruit trees for the purposes of section 4;
- (e) designating trees, shrubs or vines for the purposes of section 7;
- (f) prescribing forms and providing for their use;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 1, s. 9.



## CHAPTER 2

## The Absconding Debtors Act

**1.** In this Act, "property" includes credits and effects. R.S.O. 1960, c. 1, s. 1. Interpretation

**2.—(1)** Where a person resident in Ontario departs therefrom with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, being then possessed of any real or personal property therein not exempt by law from seizure under execution, he shall be deemed an absconding debtor, and such property may be seized and taken by an order of attachment for the satisfying of his debts. Who to be regarded as absconding debtors

**(2)** The order shall be made only in a pending action. R.S.O. 1960, c. 1, s. 2. When order may be made

**3.—(1)** Upon affidavit made by a plaintiff or his agent that the defendant is indebted to the plaintiff in a sum exceeding \$100, stating the cause of action, and that the deponent has good reason to believe and does believe that such defendant has departed from Ontario and has gone to some place, stating it, to which he is believed to have fled, or that the deponent is unable to obtain any information as to the place to which he has gone, with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, and was, at the time of his so departing, possessed to his own use and benefit of real or personal property in Ontario not exempt by law from seizure under execution, and upon the further affidavit of two other persons that they are well acquainted with the defendant and have good reason to believe and do believe that he has departed from Ontario with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, a judge of the Supreme Court may make an order in the Supreme Court for the attachment of the property of such defendant. Affidavit and order of attachment

**(2)** Where the sum claimed is within the jurisdiction of the county court, a judge thereof may in like manner make an order of attachment in that court. R.S.O. 1960, c. 1, s. 3. County court jurisdiction

**4.** A copy of the order shall be served upon the defendant. R.S.O. 1960, c. 1, s. 4. Service of order

**5.** The order shall remain in force for six months. R.S.O. 1960, c. 1, s. 5. Term of validity



Certified  
copies of  
order

**6.** The plaintiff may at any time while the order is in force obtain from the proper officer one or more certified copies thereof, which may be delivered to any sheriff other than the sheriff to whom the original order was delivered, and he may thereunder attach the property of the defendant in his bailiwick. R.S.O. 1960, c. 1, s. 6.

Liability of  
property to  
attachment

**7.** All the property of an absconding debtor liable to seizure under execution may be attached in the same manner as it might be seized under execution, and the sheriff to whom the order of attachment is directed shall forthwith take into his charge all such property, according to the exigency of the order, and shall be allowed all necessary disbursements for keeping the property, and he shall immediately call to his assistance two substantial freeholders of his county, and with their aid shall make a just and true inventory of all the personal property, evidence of title or debts, books of account, vouchers and papers that he has attached, and shall return such inventory signed by himself and such freeholders, together with the order. R.S.O. 1960, c. 1, s. 7.

Sale of live  
stock and  
perishable  
goods

**8.**—(1) Where horses, cattle, sheep or pigs, or perishable property, or such as from its nature cannot be safely kept or conveniently taken care of, are taken under an order of attachment, the sheriff who attaches them shall have them appraised, on oath, by two competent persons, and, if the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by two freeholders, approved as sufficient by the sheriff, in double the appraised value of the property, conditioned for the payment of the appraised value to the defendant, his executors or administrators, together with all costs and damages incurred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the sheriff shall proceed to sell all or any of such property at public auction to the highest bidder, giving not less than six days notice of the sale, unless any of the property is of such a nature as not to allow of that delay, in which case the sheriff may sell it forthwith, and the sheriff shall hold the proceeds for the same purposes as he would hold property seized under the order of attachment.

Restoration

(2) If the plaintiff, after notice to him or to his solicitor of the seizure of any property mentioned in subsection 1, does not deposit such bond, then, after four days next after the notice, the sheriff is relieved from all liability to the plaintiff in respect of the property so seized, and the sheriff shall forthwith restore it to the person from whose possession it was taken. R.S.O. 1960, c. 1, s. 8.

Proceedings  
if sheriff  
finds prop-  
erty in the  
hands of a  
bailiff or  
clerk of a  
small claims  
court

**9.**—(1) Where the sheriff finds any property, or the proceeds of any property that has been sold as perishable, belonging to the defendant in the custody of a constable or of a bailiff or clerk of a small claims court under a warrant of attachment issued, or finds

money paid into court under a garnishment summons under *The Small Claims Courts Act*, the sheriff shall demand and is entitled to receive the property or money from the constable, bailiff or clerk, who, on demand and notice of the order of attachment, shall forthwith deliver it to the sheriff, under the penalty of forfeiting double the value thereof, to be recovered by the sheriff, with costs of suit, and to be by him accounted for after deducting his own costs, as part of the property of the defendant, but the creditor who has sued out the warrant of attachment or taken the garnishment proceedings in the small claims court may proceed to judgment, and on obtaining judgment, and serving a certificate of the amount thereof, and of the costs, under the hand of the clerk and the seal of the small claims court, is entitled to share in the distribution, if any, by the sheriff under *The Creditors' Relief Act*.

R.S.O. 1970,  
c. 439

R.S.O. 1970,  
c. 97

(2) The costs and disbursements of such constable or bailiff are a first charge upon such property and proceeds and shall be paid by the sheriff upon demand after being taxed by the clerk of the small claims court. R.S.O. 1960, c. 1, s. 9, *amended*.

Costs of  
bailiff or  
constable

**10.** The costs of the sheriff for seizing and taking charge of property under an order of attachment, including the sums paid to persons for assisting in taking an inventory and for appraising, shall be paid in the first instance by the plaintiff, and when paid shall be taxed to him as disbursements in the action. R.S.O. 1960, c. 1, s. 10.

Sheriff's  
costs,  
how paid

**11.** Where the sheriff has made an inventory and appraisal on the first order of attachment, he shall not be required to make nor shall he be allowed for a new inventory and appraisal upon a subsequent order coming into his hands. R.S.O. 1960, c. 1, s. 11.

Cost of  
inventory

**12.**—(1) Where the defendant or any person on his behalf executes and files in the office from which the order of attachment, or the first order if there are more than one, was issued, a bond to the sheriff with at least two sufficient sureties approved by the proper officer in such office or by the local judge or master, binding the obligors jointly and severally in double the appraised value of the property attached, conditioned that the defendant (*naming him*) will whenever required by order of a judge of the court pay into court the appraised value of the property or so much thereof as will be sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property, or will produce and deliver to the sheriff the property attached, a judge of the court may direct that such property be restored to the debtor.

Restoration  
of goods to  
debtor on  
his giving  
security

(2) If within one month after the property has been attached such bond is not executed and filed, a judge of the court may

Proceedings  
on default

direct the sheriff to sell any of the goods and chattels that have been attached, except chattels real, upon such terms as the judge considers just. R.S.O. 1960, c. 1, s. 12.

Costs of  
first  
attachment

**13.** The costs of the first order of attachment and of the execution thereof have priority over all execution debts and other costs. R.S.O. 1960, c. 1, s. 13.

Liability of  
persons  
paying debts  
to abscond-  
ing debtor  
after notice  
of  
attachment

**14.—(1)** Where notice in writing of the order of attachment has been duly served by the sheriff, or by or on behalf of the plaintiff, upon a person owing a debt or demand to, or who has the custody or possession of property of, the defendant, and such person after such notice pays the debt or demand or delivers the property to the defendant or to any one for him, he shall be deemed to have done so fraudulently, and, if the other property seized by the sheriff is insufficient to satisfy the claims of all creditors who are or become entitled to be paid out of the property or the proceeds thereof, such person is liable to the sheriff for the amount of the debt or demand so paid or for the property so delivered or the value thereof.

Duty of  
sheriff

(2) The sheriff is not bound to sue until a bond is given by one or more of the plaintiffs or claimants with two sufficient sureties, who may be another of the plaintiffs or claimants, payable to the sheriff by his name of office in double the amount of the debt or of the value of the property sued for, conditioned to indemnify him from all costs, loss and expense that he may incur in the prosecution of the action or to which he may become liable in consequence thereof.

Stay of  
proceedings  
taken by  
absconding  
debtor

(3) If, after the notice mentioned in subsection 1, a person indebted to the defendant, or having the custody or possession of any of his property, is sued for the debt, demand or property by the defendant, or by the person to whom he has assigned the debt, demand or property since the date of the order of attachment, he may, on affidavit, apply to a judge of the court to stay proceedings in the action until it is known whether the other property seized by the sheriff is sufficient to satisfy the claims mentioned in subsection 1, and the judge may direct an issue to try any disputed question of fact or make such other order as he considers just. R.S.O. 1960, c. 1, s. 14.

Sale of debts  
by sheriff  
R.S.O. 1970,  
c. 97

**15.** If the other property of the defendant proves insufficient to satisfy the executions against him and the claims certified under *The Creditors' Relief Act*, and there remain debts due to the defendant and the attempt to collect such debts would be less beneficial to his creditors than a sale thereof, the sheriff may, by leave of a judge of the court, sell such debts by public auction after such advertisement as the judge directs and, pending such advertisement, the sheriff shall keep a list of the debts to be sold



open for inspection at his office, and shall give free access to all documents and vouchers explanatory of such debts; but every debt amounting to more than \$100 shall be sold separately, unless the judge otherwise directs. R.S.O. 1960, c. 1, s. 15.

**16.**—(1) The person who purchases a debt from the sheriff may sue for it in his own name, and a bill of sale in Form 1 executed by the sheriff is admissible in evidence as *prima facie* proof of such purchase and of the sheriff's authority to sell, without proof of the handwriting of the sheriff, or of the execution or order, or of the sale. Right of purchaser to sue

(2) In an action by the purchaser, the defendant may set up any defence that would have availed him against the absconding debtor at the date of the order of attachment. R.S.O. 1960, c. 1, s. 16. What defence may be set up

**17.** Where the plaintiff desires to avail himself of *The Creditors' Relief Act*, he may, instead of proceeding with his action, obtain a certificate and, in that case, may add the costs incurred in the action to the amount of his claim, unless a judge of the court otherwise orders. R.S.O. 1960, c. 1, s. 17. Option R.S.O. 1970, c. 97

**18.** Where an order of attachment has been made but no execution at the suit of a creditor against the property of the debtor is placed in the sheriff's hands for execution within three months thereafter or within such further time as a judge of the court directs, all the property of the absconding debtor or unappropriated money, the proceeds of any part of such property remaining in the sheriff's hands, together with all books of account, evidences of title, or of debt, vouchers and papers whatsoever belonging thereto, shall be delivered to the absconding debtor or to his authorized agent, or to the person in whose custody they were found, or, if taken or received under section 9, to the constable, bailiff or clerk from whom they were taken or received, upon being repaid the amount, if any, that the sheriff may have paid under subsection 2 of section 9, and thereupon the responsibility of the sheriff in respect thereto determines, or, if a bond has been given under section 12, the bond shall be delivered up to be cancelled. R.S.O. 1960, c. 1, s. 18. Sheriff's duty and end of his responsibility

## FORM 1

## BILL OF SALE OF A DEBT

(Section 16)

In consideration of \$. . . . ., the receipt whereof I hereby acknowledge;

I, *A. B.*, Sheriff of the County of . . . . ., under and by virtue of an order of attachment dated . . . . ., issued under *The Absconding Debtors Act* against the real and personal property of *C. D.*, an absconding debtor, and under and by virtue of an order in that behalf, hereby sell and assign to *E. F.* all claim by *C. D.* against *G. H.*, of (*describing the debtor*), with the evidences of debt and the securities thereto appertaining.

Witness my hand and seal of office, this . . . . . day of . . . ., 19 . . .

*A. B.*,  
Sheriff of the County of . . . . .

R.S.O. 1960, c. 1, Form 1.

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## CHAPTER 3

## The Absentees Act

**1.** An absentee within the meaning of this Act means a person who, having had his usual place of residence or domicile in Ontario, has disappeared, whose whereabouts is unknown and as to whom there is no knowledge as to whether he is alive or dead. R.S.O. 1960, c. 2, s. 1. Interpre-  
tation

**2.—**(1) The Supreme Court may by order declare a person to be an absentee if it is shown that due and satisfactory inquiry has been made, or may direct such further inquiry to be made and proceedings to be taken as the court considers expedient before making any order. Declaration  
by court

(2) The application for the order may be made by the Minister of Justice and Attorney General, or by any one or more of the next of kin of the alleged absentee, by his or her wife or husband, creditor or other person. Application,  
who may  
make

(3) Any person aggrieved or affected by the order has the right to appeal therefrom. R.S.O. 1960, c. 2, s. 2, *amended*. Appeal

**3.** Upon application at any time, the court, if satisfied that such person has ceased to be an absentee, may make an order so declaring and superseding, vacating and setting aside the order declaring the person an absentee for all purposes except as to acts or things done in respect of the estate of the absentee while such order was in force. R.S.O. 1960, c. 2, s. 3. Order  
declaring  
person no  
longer  
absentee

**4.** The court may make an order for the custody, due care and management of the property of an absentee, and a committee may be appointed for that purpose. R.S.O. 1960, c. 2, s. 4. Adminis-  
tration of  
estate

**5.** A trust company with or without one or more persons may be appointed such committee. R.S.O. 1960, c. 2, s. 5. Who may be  
appointed  
committee

**6.** Where a committee of the estate of an absentee has been appointed, the powers and duties of the court and committee are the same *mutatis mutandis* as the powers and duties of a court and of a committee of the estate of a mentally incompetent person under *The Mental Incompetency Act*. R.S.O. 1960, c. 2, s. 6. Powers and  
duties of  
court and  
committee  
  
R.S.O. 1970,  
c. 271



Powers of  
committee  
to expend  
money out  
of estate

**7.** The committee, subject to the direction of the court, has authority to expend moneys out of the estate of an absentee for the purpose of endeavouring to trace the absentee and in endeavouring to ascertain whether he is alive or dead. R.S.O. 1960, c. 2, s. 7.

Lands in  
Ontario of  
foreign  
absentee

**8.** Where a person who has had his usual place of residence or domicile out of Ontario and who has an interest in land in Ontario has been declared to be an absentee by a court of competent jurisdiction, the Supreme Court may by order, upon being satisfied that the person has disappeared, that his whereabouts is unknown and that there is no knowledge as to whether he is alive or dead, appoint a committee with such authority to manage, sell or otherwise deal with his interest in such land as in the opinion of the court is in his best interests and those of his family. 1960-61, c. 1, s. 1.

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## CHAPTER 4

**The Accidental Fires Act**

**1.** No action shall be brought against any person in whose house or building or on whose land any fire accidentally begins, nor shall any recompense be made by him for any damage suffered thereby; but no agreement between a landlord and tenant is defeated or made void by this Act. R.S.O. 1960, c. 3, s. 1.

No action  
for damages  
from acci-  
dental fire

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## CHAPTER 5

## The Accumulations Act

**1.**—(1) No disposition of any real or personal property shall direct the income thereof to be wholly or partially accumulated for any longer than one of the following terms: Maximum accumulation periods

1. The life of the grantor.
2. Twenty-one years from the date of making an *inter vivos* disposition.
3. The duration of the minority or respective minorities of any person or persons living or *en ventre sa mere* at the date of making an *inter vivos* disposition.
4. Twenty-one years from the death of the grantor, settlor or testator.
5. The duration of the minority or respective minorities of any person or persons living or *en ventre sa mere* at the death of the grantor, settlor or testator.
6. The duration of the minority or respective minorities of any person or persons who, under the instrument directing the accumulations, would, for the time being, if of full age, be entitled to the income directed to be accumulated.

(2) The restrictions imposed by subsection 1 apply in relation to a power to accumulate income whether or not there is a duty to exercise that power, and such restrictions also apply whether or not the power to accumulate extends to income produced by the investment of income previously accumulated. 1966, c. 2, s. 1 (1), *part*. Application of subs. 1 restrictions

(3) The restrictions imposed by subsection 1 apply to every disposition of real or personal property, whether made before or after its enactment. 1966, c. 2, s. 1 (1), *part, amended*. Idem

(4) Nothing in subsection 1 affects,

- (a) the validity of any act done; or
- (b) any right acquired or obligation incurred,

Previous acts, etc., not affected

under this Act before the 6th day of September, 1966. 1966, c. 2, s. 1 (2), *amended*.



Accumulations for the purchase of land

Application of invalid accumulations

(5) No accumulation for the purchase of land shall be directed for any longer period than that mentioned in subsection 1.

(6) Where an accumulation is directed contrary to this Act, such direction is null and void, and the rents, issues, profits and produce of the property so directed to be accumulated shall, so long as they are directed to be accumulated contrary to this Act, go to and be received by such person as would have been entitled thereto if such accumulation had not been so directed. R.S.O. 1960, c. 4, s. 1 (2, 3).

Saving as to debts or portions for children

**2.** Nothing in this Act extends to any provision for payment of debts of a grantor, settlor, devisor or other person, or to any provision for raising portions for a child of a grantor, settlor or devisor, or for a child of a person taking an interest under any such conveyance, settlement or devise, or to any direction touching the produce of timber or wood upon any lands or tenements, but all such provisions and directions may be made and given as if this Act had not been passed. R.S.O. 1960, c. 4, s. 2.

Rules as to accumulations not applicable to employee benefit trusts

**3.** The rules of law and statutory enactments relating to accumulations do not apply and shall be deemed never to have applied to the trusts of a plan, trust or fund established for the purpose of providing pensions, retirement allowances, annuities, or sickness, death or other benefits to employees or to their widows, dependants or other beneficiaries. 1966, c. 2, s. 2.

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## CHAPTER 6

**The Administration of Justice Act**

**1.** In this Act, “administration of justice” means the provision, maintenance and operation of, Interpretation

- (a) the courts of justice of the Province of Ontario, including small claims courts and provincial courts;
- (b) registry and land titles offices;
- (c) jails; and
- (d) the offices of coroners, clerks of the peace and Crown attorneys,

for the performance of their functions, including any functions delegated to such courts, institutions or offices or any official thereof by or under any Act. 1968, c. 1, s. 1, *amended*.

**2.—**(1) The Minister of Public Works on behalf of Ontario, Agreements may, at any time, enter into agreements with the council of any municipality for the acquisition or assumption by Ontario of property, accommodation, furnishing or equipment, or of contracts therefor, provided or entered into by the municipality for the administration of justice.

(2) For the purposes of subsection 1, the Minister of Public Idem Works may acquire more property or accommodation than is necessary for the purposes of the administration of justice, and may enter into agreements with the councils of municipalities for the use of any part of such property or accommodation by the municipality or a local board thereof for municipal purposes.

(3) Where, by an agreement under subsection 1, the council of a municipality retains or acquires property used for the administration of justice, such property shall be deemed to be required for the purposes of the municipality. Property deemed for municipal purposes

(4) Where, immediately before the 1st day of January, 1968, a municipality provided accommodation, furnishing, and equipment that it was required to provide for the purposes of the administration of justice, the municipality shall continue to provide such accommodation, furnishing and equipment until an agreement is entered into in respect thereof under subsection 1. 1968, c. 1, s. 2. Responsibility before agreement

Contracts  
of employ-  
ment

**3.** Notwithstanding the provisions of any contract, where a person employed by the municipality in the administration of justice on the 31st day of December, 1967, is offered equivalent employment by Ontario, the municipality may terminate any contract of employment with such person. 1968, c. 1, s. 3.

Portion  
remitted to  
Ontario

**4.** Notwithstanding any other Act, every municipality shall pay to the Treasurer of Ontario all fines that are required by any Act to be paid over to the municipality, other than fines imposed for contravention of the by-laws of the municipality or a local board thereof. 1968, c. 1, s. 4.

Retaining  
special  
services

**5.—(1)** Where, in the opinion of the Crown attorney, special services are necessary for the detection of crime or the capture of a person who is believed to have committed a crime of a serious character, he may authorize and direct any person to perform such service, and shall certify upon the account to be rendered by the constable or other person what he considers to be a reasonable allowance to be paid to the person employed, and the amount so certified shall be paid to such person out of the moneys appropriated by the Legislature for the administration of justice.

Employ-  
ment and  
payment  
of inter-  
preter

**(2)** The Crown attorney may employ an interpreter in any criminal cause or investigation or at a coroner's inquest, and the interpreter shall be paid such amount as the Crown attorney certifies to be reasonable, and it shall be paid out of the moneys appropriated by the Legislature for the administration of justice. 1968, c. 1, s. 5.

Payment  
for special  
services

**6.—(1)** Where services are rendered by a person in connection with a prosecution and the services are rendered by the direction or with the approval of the Director of Public Prosecutions, the person rendering the services is entitled to be paid such sum as the Director of Public Prosecutions directs out of the moneys appropriated by the Legislature for the administration of justice.

Remunera-  
tion of  
witness  
coming to  
Ontario

**(2)** Where the Director of Public Prosecutions is of the opinion that it is necessary in order to procure the attendance as a witness for the Crown at a criminal trial of a person resident out of Ontario and that such person should be compensated for his loss of time and expenses in attending the trial, the Director of Public Prosecutions may direct that such sum as he considers reasonable be paid to such person out of the moneys appropriated by the Legislature for the administration of justice.

Payment of  
expenses of  
bringing  
accused  
to trial

**(3)** Where the Director of Public Prosecutions is of the opinion that it is advisable to bring a person charged with an indictable offence from a place out of or in Ontario to the place of trial in Ontario, he may direct that such be done and in every such case

the expenses incurred in carrying out the direction shall be paid out of the moneys appropriated by the Legislature for the administration of justice. 1968, c. 1, s. 6.

**7.** The Lieutenant Governor in Council may make regula- Regulations  
tions,

- (a) requiring the payment of fees for any thing required or authorized to be done by any person in the administration of justice, and prescribing the amounts thereof;
  - (b) providing for the payment of fees and expenses for services in connection with the administration of justice;
  - (c) providing for any special provision considered necessary in respect of the terms of employment, remuneration, and benefits of persons employed by municipalities in the administration of justice immediately before the 1st day of January, 1968, and becoming employed by Ontario on that day, or any class thereof. 1968, c. 1, s. 7, *amended*.
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## CHAPTER 7

## The Age Discrimination Act

**1.** In this Act,Interpre-  
tation

(a) “age” means any age of forty years or more and less than sixty-five years;

(b) “Commission” means the Ontario Human Rights Commission;

(c) “employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

(d) “Minister” means the Minister of Labour or such other member of the Executive Council to whom this Act is assigned by the Lieutenant Governor in Council;

(e) “person”, in addition to the extended meaning given it by *The Interpretation Act*, includes an employment agency, an employers’ organization and a trade union; R.S.O. 1970, c. 225

(f) “trade union” means an organization of employees formed for purposes that include the regulation of relations between employees and employers. 1966, c. 3, s. 1.

**2.—**(1) This Act shall be administered by the Commission.Administra-  
tion of Act  
Idem

(2) The Commission is responsible to the Minister for its administration of this Act. 1966, c. 3, s. 2.

**3.** Subject to the approval of the Lieutenant Governor in Council, the Commission may exempt designated occupations from this Act or any provision thereof. 1966, c. 3, s. 3.

Exemptions  
from Act

**4.** Nothing in this Act affects the operation of any *bona fide* retirement or pension plan or the terms or conditions of any *bona fide* group or employee insurance plan. 1966, c. 3, s. 4.

Application  
of Act

**5.** This Act applies to and binds the Crown in right of Ontario and every agency thereof. 1968-69, c. 1, s. 1.

Crown  
bound  
by Act

**6.—**(1) No employer or person acting on behalf of an employer shall,

Prohibitions

(a) refuse to employ or to continue to employ any person or discriminate against any person with regard to employment or any condition of employment; or

- (b) refuse promotion to an employed person; or
- (c) publish or display or cause to be published or displayed or permit to be published or displayed any notice, sign, advertisement or publication that expresses directly or indirectly any intention to make any limitation, specification or discrimination with respect to the employment or prospective employment of any person,

because of his age. 1966, c. 3, s. 5 (1); 1968, c. 2, s. 1.

Idem (2) No trade union shall exclude from membership or expel or suspend any person or member or discriminate against any person because of his age. 1966, c. 3, s. 5 (2).

Complaints **7.**—(1) The Commission itself or through any person designated so to do may inquire into the complaint of any person that he or any person has been discriminated against contrary to this Act and it shall endeavour to effect a settlement of the matter complained of.

Form of complaint (2) Every such complaint shall be in writing on the form prescribed by the Commission and shall be mailed or delivered to the Commission at its office.

Boards of inquiry (3) If the Commission is unable to effect a settlement of the matter complained of, the Minister may, on the recommendation of the Commission, appoint a board of inquiry composed of one or more persons to investigate the matter and shall forthwith communicate the names of the members of the board to the parties to the complaint, and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act.

Powers R.S.O. 1970, c. 232 (4) The board has all the powers of a conciliation board under section 30 of *The Labour Relations Act*.

Duties (5) The board shall give the parties full opportunity to present evidence and to make submissions and, if it finds that the complaint is supported by the evidence, it shall recommend to the Commission the course that ought to be taken with respect to the complaint.

Majority recommendations to prevail (6) If the board is composed of more than one person, the recommendations of the majority are the recommendations of the board.

Clarification of recommendations (7) After the board has made its recommendations, the Commission may direct it to clarify or amplify any of them, and they shall be deemed not to have been received by the Commission until they have been so clarified or amplified.

Minister's order (8) The Minister, on the recommendation of the Commission, may issue whatever order he considers necessary to carry the

recommendations of the board into effect, and such order is final and shall be complied with in accordance with its terms.

(9) The Lieutenant Governor in Council may determine the rate of remuneration of the chairman and members of boards of <sup>Remuneration</sup> appointed under this section. 1966, c. 3, s. 6.

**8.** Every person who contravenes any provision of this Act or <sup>Offences</sup> any order made under this Act is guilty of an offence and on summary conviction is liable,

- (a) if an individual, to a fine of not more than \$100; or
- (b) if a corporation, trade union, employers' organization or employment agency, to a fine of not more than \$500. 1966, c. 3, s. 7 (1).

**9.** No prosecution for an offence under this Act shall be <sup>Consent to prosecution</sup> instituted except with the consent in writing of the Minister. 1966, c. 3, s. 8.

**10.** A prosecution for an offence under this Act may be <sup>Style of prosecution</sup> instituted against a trade union or employers' organization in the name of the union or organization, and any act or thing done or omitted by an officer, official or agent of a trade union or employers' organization within the scope of his authority to act on behalf of the trade union or employers' organization shall be deemed to be an act or thing done or omitted by the trade union or employers' organization. 1966, c. 3, s. 9.

**11.—(1)** Where a person has been convicted of a contraven- <sup>Injunction proceedings</sup> tion of this Act, the Minister may apply by way of originating notice to a judge of the Supreme Court for an order prohibiting such person from continuing such contravention.

(2) The judge in his discretion may make such order and the <sup>Idem</sup> order may be entered and enforced in the same manner as any order or judgment of the Supreme Court. 1966, c. 3, s. 10.

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## CHAPTER 8

## The Agricultural Associations Act

**1.** In this Act,Interpre-  
tation

- (a) “association” means an organization mentioned in section 2 or designated under section 2 or to which the Act applies under section 21 or constituted an association under section 23;
- (b) “Minister” means the Minister of Agriculture and Food. R.S.O. 1960, c. 6, s. 1, *amended*.

**2.** The following associations, societies and organizations are bodies corporate under this Act:Certain  
bodies are  
corporations  
under act

The Ontario Fruit and Vegetable Growers' Association,  
The Entomological Society of Ontario,  
The Dairymen's Association of Eastern Ontario,  
The Dairymen's Association of Western Ontario,  
The Ontario Poultry Association,  
The Eastern Ontario Poultry Association,  
The Ontario Bee-keepers' Association,  
The Ontario Agricultural and Experimental Union,  
The Ontario Horse Breeders' Association,  
The Gardeners' and Florists' Association,  
The Ontario Corn Growers' Association,  
The Ontario Plowmen's Association,  
The Ontario Swine Breeders' Association,

and such other associations, societies, institutes or organizations as the Lieutenant Governor in Council designates. R.S.O. 1960, c. 6, s. 2.

**3.** The membership of each association shall consist of annual subscribers, and the membership fee shall be fixed by by-law. R.S.O. 1960, c. 6, s. 3.

Membership

**4.** Each association shall have a constitution and by-laws under which the association shall be conducted, and the constitution and by-laws, and any change, alteration or repeal thereof shall be submitted to and approved by the Minister before the same has force or effect. R.S.O. 1960, c. 6, s. 4.Constitution  
and by-laws**5.** Each association shall hold an annual meeting at such time and place as are determined by by-law. R.S.O. 1960, c. 6, s. 5.Annual  
meeting

Election of  
directors

**6.** Each association, at its annual meeting, shall elect a board of directors, the number of directors, their representation of certain districts or classes of members, and their mode of selection being determined by by-law. R.S.O. 1960, c. 6, s. 6.

Non-  
members,  
election of

**7.** The members may elect as director a person not a member of the association, but the person so elected must, within ten days, become a member, and he is entitled to act as director only after he has become a member of the association. R.S.O. 1960, c. 6, s. 7.

Statements  
at annual  
meeting

**8.** At each annual meeting the retiring officers shall present a full report of their proceedings and of the proceedings of the association and a detailed statement of the receipts and expenditure for the previous year and of the assets and liabilities, duly audited, and a copy of the report and of each of the statements of the receipts and expenditure, together with a list of the members and a list of the officers elected, and also such general information on matters of special interest to each association as the association has been able to obtain, shall be sent to the Minister within forty days after the holding of the annual meeting. R.S.O. 1960, c. 6, s. 8.

Officers

**9.**—(1) The directors shall, from among themselves, elect a president and one or more vice-presidents and shall also from among themselves or otherwise elect a secretary and a treasurer or a secretary-treasurer.

Quorum

(2) Except where otherwise provided, a majority of the directors of the association forms a quorum. R.S.O. 1960, c. 6, s. 9.

Powers of  
directors

**10.** The directors have full power to act for and on behalf of the association, and all grants of money and other funds of the association shall be received and expended under their direction, subject to the by-laws and regulations of the association. R.S.O. 1960, c. 6, s. 10.

Auditing of  
accounts

**11.** The Minister may appoint a person who shall audit the accounts of any association, and such auditor shall present a report of the result of his audit to the officers of the association, and also to the Minister. R.S.O. 1960, c. 6, s. 11.

Right of  
voting

**12.** The members of the association may by by-law provide that only those members who have paid their subscriptions at least one week in advance of the annual meeting are qualified to vote at the annual meeting for the election of directors. R.S.O. 1960, c. 6, s. 12.

**13.** Except as otherwise provided, a vacancy occurring by the death or resignation, or failure to qualify as a member, of any officer or director may be filled by the remaining officers of the association, and it is the duty of such officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but, in the event of the remaining officers being insufficient to form a quorum or if, for any reason, a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in the manner provided in section 14. R.S.O. 1960, c. 6, s. 13.

Vacancies in  
offices

**14.**—(1) In the event of an election of any directors of an association not being held at the time or place directed by by-law or being for any reason illegal and void, the persons in office at the time when such officers or directors should have been elected shall continue to be the officers of the association until their successors are legally appointed.

Continuance  
in office

(2) In the event of any such non-election or illegal election, a special meeting of the members of the association shall, as soon as practicable, be called in the manner provided by this Act, for the election of such directors, and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be the officers of the association. R.S.O. 1960, c. 6, s. 14.

Failure to  
elect,  
special  
meeting

**15.** A special meeting of the directors of an association may be called by the president thereof or, in his absence or on his neglect, by the vice-president, or, in the absence or on the neglect of the president and vice-president, by any three members of the association, of which meeting at least seven days notice shall be given to each member. R.S.O. 1960, c. 6, s. 15.

Special  
meeting of  
directors

**16.**—(1) The treasurer of every association before entering upon the duties of his office shall give such security either by joint or several covenant with one or more sureties, or otherwise as the board of directors considers necessary, for the faithful performance of his duties and especially for the due accounting for and paying over of all money that comes into his hands.

Security by  
treasurer

(2) It is the duty of the board in each year to inquire into the sufficiency of the security given by the treasurer and to report thereon and, where the same treasurer is reappointed from year to year, his reappointment shall not be considered as a new term of office but as a continuation of the former appointment, and any bond or security given to the association for the faithful performance of his duties under such reappointment continues valid as against the parties thereto.

Duty of  
board as to  
security



Personal  
responsi-  
bility of  
officers  
for loss

(3) If the officers of an association neglect to procure and maintain proper and sufficient security, they are personally responsible for all funds of the association in the possession of the treasurer. R.S.O. 1960, c. 6, s. 16.

Legislative  
grant

**17.**—(1) Every association is entitled to receive annually out of the moneys appropriated by the Legislature for the purpose a specified sum on condition,

- (a) that the number of *bona fide* members is at least fifty;
- (b) that the secretary of the association will, on or before the 1st day of September in each year, transmit to the Minister an affidavit, stating the number of members who have paid their subscriptions for the current year, and the total amount of such subscriptions;
- (c) that this Act has been complied with; and
- (d) that none of the funds of the association from whatever source derived, have been expended in a manner inconsistent with the purposes of organization of the association.

Grants from  
municipal  
councils

(2) Any municipal council may grant or loan money or grant land in aid of any agricultural association formed within the limits of the municipality, or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such association has made the returns required by this Act, but the total amount or value of the money or land granted or loaned by any municipality to an agricultural association under this section shall not exceed \$5,000 in the case of a city, \$2,000 in the case of a town and \$1,000 in the case of a village. R.S.O. 1960, c. 6, s. 17.

Forfeiture  
of powers  
for  
non-user

**18.** If an association ceases for twelve consecutive months to do business as required by this Act and by its constitution and by-laws, or if the Minister is satisfied, after an inquiry of which the association was given due notice to appear, that the business of the association is not being properly conducted, the Minister may declare the corporate powers of the association forfeited. R.S.O. 1960, c. 6, s. 18.

Certain  
fairs and  
exhibitions  
incorporated

**19.** The Ontario Horticultural Exhibition, the Ottawa Winter Fair, the Peninsular Winter Fair and such other organizations as are designated by the Lieutenant Governor in Council are corporate bodies under this Act with power to acquire and hold land as a site for fairs and exhibitions, to sell, mortgage, lease or otherwise dispose of the same or any other property held by such body, and the Lieutenant Governor in Council may prescribe such constitution, rules and regulations as are considered necessary. R.S.O. 1960, c. 6, s. 19.

**20.**—(1) Any association, society, institute or organization mentioned in or designated under section 2 has power to acquire and hold land for such purposes as the Lieutenant Governor in Council approves and has power to sell, mortgage, lease or otherwise dispose of such land.

Power of associations to acquire and hold land

(2) The Lieutenant Governor in Council may regulate and govern the acquisition, holding or disposition of land by associations, societies, institutes or organizations, or by any one or more of them. R.S.O. 1960, c. 6, s. 20.

Power of Lieutenant Governor in Council to regulate

**21.** Upon the petition of any association or society not subject to this Act but formed for the purpose of advancing the interests of any branch of agriculture being presented to the Lieutenant Governor in Council, the Lieutenant Governor in Council may declare that this Act applies to the association or society so petitioning, and thereafter this Act applies to Such association or society in the same manner and to the same extent as if it had been incorporated under this Act. R.S.O. 1960, c. 6, s. 21.

Admission of other societies

**22.**—(1) An advisory board for live stock may be formed to advise the Minister regarding matters of interest to the live stock industry.

Advisory board for live stock

(2) The Lieutenant Governor in Council may direct how the board shall be constituted, and may prescribe the duties and powers of the board.

Board, powers and duties of

(3) Members of the advisory board shall receive an allowance for their time and their necessary travelling expenses in attending meetings of the board or a committee of the board. R.S.O. 1960, c. 6, s. 22.

Allowances for expenses

**23.**—(1) The formation of boards of agriculture, farmers' institutes and women's institutes for the purpose of disseminating information in regard to agriculture and of improving domestic life shall be permitted under this Act, and the same constitute associations under this Act.

Farmers' and women's institutes

(2) The Lieutenant Governor in Council may make regulations providing for the number and location of boards of agriculture, farmers' institutes and women's institutes, for their general guidance and direction, and fixing the grants and the conditions upon which the grants are to be paid. R.S.O. 1960, c. 6, s. 23.

Regulations



## CHAPTER 9

## The Agricultural Committees Act

**1.** In this Act,Interpre-  
tation

- (a) "agricultural organization" includes an agricultural co-operative, agricultural association, agricultural society, agricultural club and any branch of any of them;
- (b) "agricultural representative" means an agricultural representative appointed under *The Agricultural Representatives Act*; R.S.O. 1970,  
c. 13
- (c) "county" includes a territorial district;
- (d) "Department" means the Department of Agriculture and Food;
- (e) "Minister" means the Minister of Agriculture and Food. R.S.O. 1960, c. 7, s. 1, *amended*.

**2.—**(1) A committee consisting of not more than fifteen persons may be formed in any county, and the name of every such committee shall bear the name of such county. Committee,  
formation

(2) Where only one agricultural representative has been appointed for two counties, one committee may be formed for the two counties. One com-  
mittee for  
two counties

(3) Where two agricultural representatives have been appointed for one county, two committees may be formed for the county. Two com-  
mittees for  
one county  
R.S.O. 1960, c. 7, s. 2.

**3.—**(1) Where an agricultural representative in a county receives written notice from any three or more agricultural organizations within his county requesting the organization of an agricultural committee, he shall forthwith call a general meeting of representatives of the agricultural organizations in the county for the purpose of forming a committee. Organiza-  
tion

(2) At the meeting a committee of not more than thirteen persons shall be selected by such mode as is determined at the meeting for the current year or until their successors are selected and every agricultural organization is entitled to at least one representative on the committee, unless there are more than thirteen agricultural organizations represented at the meeting, in which event one person may be selected as the representative of two or more agricultural organizations. Selection of  
committee



Chairman,  
vice-  
chairman

(3) The committee so selected shall appoint an acting chairman and acting vice-chairman from among themselves and the agricultural representative shall be the acting secretary-treasurer of the committee.

Report to  
Minister

(4) A report of the meeting, certified by the acting chairman and the acting secretary-treasurer showing the names of the agricultural organizations represented at the meeting and the names and addresses of the persons selected as members of the committee, together with such other information as the Minister may require, shall be forwarded to the Minister within ten days after the holding of the meeting. R.S.O. 1960, c. 7, s. 3.

Committee  
declared  
agricultural  
committee

**4.**—(1) Upon receipt of the report mentioned in subsection 4 of section 3, the Minister may declare such committee to be an agricultural committee.

Members

(2) The members of the committee shall be members of the agricultural committee and the agricultural representative shall be the secretary-treasurer. R.S.O. 1960, c. 7, s. 4.

Appoint-  
ment of  
members:

**5.**—(1) One member may be appointed to the committee by the member or members of the Legislature whose electoral district or districts include any rural part of the county and such member shall hold office during pleasure.

in county

(2) In the case of a county agricultural committee, one member may be appointed annually by the county council.

in district

(3) In the case of a district agricultural committee, one member may be appointed by the Minister and shall hold office during pleasure. R.S.O. 1960, c. 7, s. 5.

Who to be  
members of  
committee

**6.** No person shall be selected or appointed as a member of a committee except a farmer, farm woman, retired farmer, farm youth or an official of an agricultural organization. R.S.O. 1960, c. 7, s. 6.

Annual  
meeting

**7.** The agricultural representative shall call an annual meeting of representatives of all agricultural organizations in the county and members of the agricultural committee for the ensuing year shall be selected and a chairman and vice-chairman shall be elected thereat in such manner as is prescribed by the rules of the agricultural committee. R.S.O. 1960, c. 7, s. 7.

Objects and  
purposes

**8.** The objects and purposes of an agricultural committee are,  
(a) to co-operate with and make suggestions to the agricultural representative;

- (b) to consider and make recommendations to appropriate authorities with respect to soil conservation, reforestation, weed control, health of animals, plant diseases, crop production, marketing problems and such other matters as are considered advisable for the improvement of agriculture in the county;
- (c) to co-ordinate the undertakings of the various agricultural organizations in the county;
- (d) to assist in promoting farm youth activities in the county. R.S.O. 1960, c. 7, s. 8.

**9.** The Minister may assign to any committee any matter or undertaking that he considers of special interest to agriculture. R.S.O. 1960, c. 7, s. 9. Assignment of undertakings

**10.** An agricultural committee may initiate or promote any matter or undertaking for the purpose of improving agriculture. R.S.O. 1960, c. 7, s. 10. Promotion of matter or undertaking

**11.** Subject to the approval of the Minister, an agricultural committee may require producers of any agricultural product in the county to register their names and addresses with the secretary-treasurer and to furnish such information respecting the production, other than cost, of such agricultural product as the agricultural committee determines. R.S.O. 1960, c. 7, s. 11. Registration of producers

**12.** An agricultural committee may establish an executive committee to consist of three or five members for such purposes as the committee determines. R.S.O. 1960, c. 7, s. 12. Executive committee

**13.** The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 7, s. 13. Regulations

**14.** Subject to the approval of the Minister, the travelling expenses of the members shall be paid out of the moneys appropriated by the Legislature for the purpose. R.S.O. 1960, c. 7, s. 14. Expenses

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## CHAPTER 10

## The Agricultural Development Act

**1.** In this Act,

Interpretation

- (a) "Commissioner" means the Commissioner of Agricultural Loans;
- (b) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 8, s. 1, *amended*.

**2.**—(1) The office of Commissioner of Agricultural Loans is continued and the Commissioner of Agricultural Loans is continued as a corporation sole under that name with perpetual succession and an official seal and may sue and be sued under that name in the same manner as any other corporation sole, and the Lieutenant Governor in Council may appoint a person to hold that office.

Commissioner of Agricultural Loans

(2) The Lieutenant Governor in Council may appoint an Assistant Commissioner of Agricultural Loans who shall have and may exercise and perform all the powers, rights, duties and obligations of the Commissioner. R.S.O. 1960, c. 8, s. 2.

Assistant Commissioner

**3.** The Commissioner shall promote agricultural development by means of loans as provided in this Act and in any other manner that the Commissioner considers advisable. R.S.O. 1960, c. 8, s. 3.

Duty of Commissioner

**4.** The Commissioner, with the approval of the Lieutenant Governor in Council, may issue bonds of the Commissioner to the amount of \$500,000 in such denominations and at such rates of interest as the Commissioner considers proper and subject to such conditions as to the sale and disposal thereof as the Commissioner considers advisable. R.S.O. 1960, c. 8, s. 4.

Commissioner may issue bonds

**5.** The Lieutenant Governor in Council may authorize the Treasurer to purchase out of the Consolidated Revenue Fund any bonds or debentures issued by the Commissioner under this Act. R.S.O. 1960, c. 8, s. 5.

Treasurer may purchase bonds

**6.** All moneys received by the Commissioner from the sale of the bonds issued under section 4 shall be deposited in a separate account of the Commissioner in a chartered bank of Canada or in the office of a company or corporation authorized to accept deposits and such moneys shall be used solely for the purposes set forth in this Act. R.S.O. 1960, c. 8, s. 6.

Proceeds of bonds; how dealt with



Issue of  
debentures  
by Com-  
missioner

**7.**—(1) The Commissioner, with the approval of the Lieutenant Governor in Council, may issue debentures in such denominations and at such rate of interest as the Commissioner considers advisable and as are approved by the Lieutenant Governor in Council, and the proceeds of any debentures so issued shall be disposed of in the manner provided by section 6 in respect of the proceeds of the sale of bonds issued by the Commissioner.

Security

(2) The debentures so issued shall be issued upon the security of the assets of the Commissioner and shall not exceed the amount of such assets, and such debentures are a first charge upon all the assets and revenues of the Commissioner.

Lawful in-  
vestment

(3) Notwithstanding anything in any other Act, the bonds and debentures of the Commissioner are a lawful investment for municipal, school and trust funds. R.S.O. 1960, c. 8, s. 7.

Authority to  
guarantee  
payment of  
bonds and  
debentures

**8.**—(1) The Lieutenant Governor in Council may authorize the Treasurer to guarantee payment on behalf of the Province of Ontario of any bonds or debentures issued by the Commissioner under this Act.

Form of  
guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council. R.S.O. 1960, c. 8, s. 8.

Commis-  
sioner may  
make loans,  
for what  
purposes

**9.**—(1) Out of the moneys at his disposal from time to time as the proceeds of the sale or hypothecation of any bonds or debentures issued by the Commissioner, the Commissioner may make loans for the following purposes and no other:

1. Acquiring land for agricultural purposes.
2. The erection of farm buildings essential to production.
3. To pay off charges existing against land at the time of acquisition by the borrower under a will or by descent.
4. To pay off encumbrances, in which cases loans shall not exceed 50 per cent of the valuation.
5. For the purpose of providing tile drainage.
6. To purchase breeding live stock.
7. To consolidate outstanding liabilities incurred for productive agricultural purposes.
8. For such other purposes relating to the development and operation of the applicant's farm as the Commissioner approves.

Collateral  
security

(2) At the time of or after the making of a loan under this Act, the Commissioner may accept as collateral security for the loan a

life insurance policy or an assignment thereof or any other security that he considers proper.

(3) The Commissioner may make such composition, extension of time or scheme of arrangement with any borrower on his loan as the Commissioner considers advisable. R.S.O. 1960, c. 8, s. 9. Composition, extension of time, etc.

**10.** The Commissioner, with the approval of the Lieutenant Governor in Council, may appoint committees, each of which shall be composed of two or more competent persons, one of whom is or has been a practical farmer, to consider and report to the Commissioner upon applications and upon problems that may arise in connection with loans already made. R.S.O. 1960, c. 8, s. 10. Committees

**11.** Every applicant for a loan under this Act may be required to appear in person before the Commissioner or a qualification committee and shall submit evidence to the satisfaction of the Commissioner or Committee, Qualifications of applicants for loans

- (a) that he is a British subject of at least twenty-one years of age and has been resident in Canada for at least three years;
- (b) that he has had at least three years experience in farming and has displayed average ability and capacity;
- (c) that he is of good character; and
- (d) that he is actually engaged or intends to engage upon the land upon the security of which the loan is to be made. R.S.O. 1960, c. 8, s. 11.

**12.—**(1) No loan shall exceed \$7,500 and every loan shall be secured by a first mortgage upon lands suitable for agricultural purposes. Limitations as to loan

(2) On a property of less than fifty acres, the maximum valuation to be recognized by the Commissioner is \$300 per acre. R.S.O. 1960, c. 8, s. 12. On less than 50 acres

**13.—**(1) Before making a loan under this Act, the Commissioner shall secure a report from a competent valuator as to the value of the security offered by the applicant. Valuator's report

(2) The land and buildings shall be valued on the basis of their value for agricultural purposes. Mode of valuing

(3) The buildings upon the land shall be insured to their full insurable value. R.S.O. 1960, c. 8, s. 13. Insurance

**14.** Where the Commissioner is satisfied that the conditions of Extent of loan

this Act have been complied with and that agricultural development will be promoted by the loan, the Commissioner may make a loan to the applicant to the extent of 50 per cent of the value of the security as shown by the valuator's report. R.S.O. 1960, c. 8, s. 14.

Loan,  
how  
repayable

**15.**—(1) Except as provided in this Act, every loan made under this Act is repayable in equal annual instalments of principal and interest sufficient to discharge the debt at the end of such period as is agreed upon, but no loan shall be made for more than thirty years.

Payments  
on accounts  
of loan

(2) Payments on account of the loan, in addition to those provided for in the mortgage or agreement, may be made at any time.

Provisions of  
payment,  
alterations  
in

(3) Notwithstanding anything in this Act, the Commissioner may accept payment of interest without principal for any period not exceeding three years and may, at any time at his discretion, alter the provisions for payment of any mortgage and may consolidate the total indebtedness owing by any mortgagor to the Commissioner, inclusive of accrued interest and moneys paid for taxes and insurance, to the date of consolidation and may alter the provisions of the mortgage so that the consolidated indebtedness with interest will be repayable in annual instalments within a period not exceeding thirty years from the date of consolidation.

Regulations

(4) The Commissioner may, with the approval of the Lieutenant Governor in Council, make regulations relating to sales made by the Commissioner under the power of sale contained in a mortgage where the purchase money or part thereof is secured by an agreement for sale.

Equity of  
redemption

(5) The Commissioner may accept a release of the equity of redemption existing by virtue of a mortgage to him and may sell any mortgaged property that he has thus acquired or that he is empowered to sell by virtue of the power of sale contained in a mortgage, at such price and upon such terms as in his discretion are considered advisable.

Delay in  
payments

(6) When a sale has been made by the Commissioner under the power of sale contained in a mortgage and the purchase money or part thereof is secured by an agreement for sale and any instalment, whether for principal or interest payable under the agreement, is not punctually paid, or if the purchaser makes default in the performance of any of the terms of the agreement, the Commissioner, without any formal re-entry or taking of possession and without resorting to proceedings in equity or at law, may, upon ten days notice in writing to the purchaser directed by mail to him at his last known address, rescind the agreement and resell or otherwise deal with the property as

provided for in the mortgage, to the same extent as if the agreement had not been entered into. R.S.O. 1960, c. 8, s. 15.

**16.** Every mortgage made under this Act shall be made in accordance with *The Short Forms of Mortgages Act* and may contain such further covenants, provisoes and conditions as the Commissioner considers proper, and the Commissioner has and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act as a mortgagee has under the laws of Ontario. R.S.O. 1960, c. 8, s. 16.

Mortgages,  
how made  
R.S.O. 1970,  
c. 437

**17.** Notices, mortgages, discharges and other documents of every kind and description made or used under this Act shall be prepared by the Commissioner or by some person designated by the Commissioner. R.S.O. 1960, c. 8, s. 17.

Commis-  
sioner to  
prepare  
notices,  
mortgages,  
etc.

**18.**—(1) If at any time in the opinion of the Commissioner any money advanced under this Act has not been or is not being applied for the purpose for which it was advanced, or is not being carefully and economically expended, or if the security depreciates in value, the Commissioner may refuse to make any further advance and may call in the whole amount already advanced and all interest thereon and declare the same to be immediately due and payable, whereupon the borrower shall at once repay the same with interest at the rate set forth in the mortgage, and in default of payment the Commissioner has the like remedies for recovery of the same as if the time for repayment thereof had fully arrived.

Where  
money mis-  
applied

(2) It shall be a term of every mortgage taken as security for a loan that, upon the sale of the farm land mortgaged, the loan will, at the option of the Commissioner, immediately become due and payable. R.S.O. 1960, c. 8, s. 18.

Term of  
mortgage

**19.**—(1) Every payment made on a mortgage given under this Act shall be disposed of as follows:

Payments  
on  
mortgages,  
how  
disposed of

1. The portion of the payment that consists of principal shall, at the option of the Commissioner, be paid to the Treasurer as received to provide for the payment of the principal payable upon the debentures issued by the Agricultural Development Board or by the Commissioner and held by the Treasurer; or the Commissioner may, if he so desires, retain the principal portion of the payment and reinvest it in first mortgages according to this Act, and such moneys shall, while in the hands of the Commissioner, be placed in a special account and shall be kept entirely separate and distinct from the



other accounts and funds of the Commissioner, and in the event of the Commissioner retaining and reinvesting such principal, the Treasurer shall, at the end of each fiscal year and upon the certificate of the Provincial Auditor, cancel the Commissioner's debentures up to the amount reinvested by the Commissioner during such year and accept from the Commissioner new debentures for such amount.

2. The portion of the payment that consists of interest and all other revenue of the Commissioner on account of loans shall be applied to payment of losses written off or sustained on the sale of mortgaged properties and the balance then remaining shall be paid to the Treasurer in payment of interest on debentures issued by the Commissioner. R.S.O. 1960, c. 8, s. 19 (1); 1966, c. 4, s. 1.

Other  
revenue

(2) Any other revenue of the Commissioner on account of loans shall be credited to a reserve fund account and shall at the end of each month be transferred to the Consolidated Revenue Fund. R.S.O. 1960, c. 8, s. 19 (2).

Commis-  
sioner to  
obtain re-  
ports as to  
condition of  
securities

**20.** The Commissioner from time to time shall obtain reports as to the condition of any securities taken by him for loans under this Act and as the progress and prospects of the borrowers, and for this purpose the Department of Agriculture and Food may co-operate with the Commissioner by rendering assistance of an educational or other nature that appears calculated to facilitate the success of the borrower. R.S.O. 1960, c. 8, s. 20, *amended*.

Staff

**21.** The Commissioner shall be assisted in the administration of this Act by such officers and other employees in the public service of Ontario as the Treasurer may assign for the purpose. 1966, c. 4, s. 2.

Annual  
report

**22.** The Commissioner shall make a report annually to the Treasurer, and the Treasurer shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1966, c. 4, s. 3.

Regulations

**23.** The Commissioner, with the approval of the Lieutenant Governor in Council, may make regulations respecting,

- (a) the proceedings of the Commissioner;
- (b) the mode in which applications for loans are to be made and the forms thereof;
- (c) the forms of mortgages to be taken by the Commissioner, including all provisions to be inserted therein;
- (d) the fees and expenses payable by borrowers under this Act;

- (*e*) the conditions that may be imposed in regard to loans;
  - (*f*) the consideration and granting of applications for loans;
  - (*g*) the valuations to be made in relation to applications for loans;
  - (*h*) the records, books and accounts to be kept by the Commissioner and the auditing of its accounts;
  - (*i*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 8, s. 24.
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## CHAPTER 11

**The Agricultural Development Finance Act**

**1.**—(1) The Treasurer of Ontario may borrow money by means of deposits in any amounts and from any persons and may open offices for this purpose at such places in Ontario as he finds expedient.

Powers of  
Treasurer of  
Ontario to  
borrow

(2) Moneys deposited under this section are subject to attachment in the same manner as money deposited in a chartered bank. R.S.O. 1960, c. 9, s. 1.

Moneys  
subject to  
attachment

**2.** The Lieutenant Governor in Council may from time to time fix the conditions as to interest and repayments that will govern such deposits. 1967, c. 1, s. 1.

Conditions  
as to  
interest and  
payment

**3.** Moneys borrowed under this Act shall be used for any of the following purposes: for the public service, for works carried on by commissioners on behalf of Ontario, for the covering of any debt of Ontario on open account, for paying any floating indebtedness of Ontario, and for the carrying on of the public works authorized by the Legislature. R.S.O. 1960, c. 9, s. 3.

Use of  
moneys

**4.** All expenses incurred in the administration of this Act shall be paid out of and all revenue paid into the Consolidated Revenue Fund. R.S.O. 1960, c. 9, s. 4.

Expenses  
and  
revenues

**5.** The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 9, s. 5.

Regulations

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## CHAPTER 12

### The Agricultural Rehabilitation and Development Act (Ontario)

**1.** In this Act,

Interpre-  
tation

- (a) "Directorate" means the Agricultural Rehabilitation and Development Directorate of Ontario;
- (b) "Minister" means the Minister of Agriculture and Food;
- (c) "project" means a project for,
  - (i) the more efficient use and economic development of lands,
  - (ii) the development of income and employment opportunities in rural areas and improving standards of living in those areas, or
  - (iii) the development and conservation for agricultural purposes of water supplies and for soil improvement and conservation that will improve agricultural efficiency;
- (d) "research program" means a program of research and investigation respecting,
  - (i) the more effective use and economic development of lands,
  - (ii) the development of income and employment opportunities in rural areas and the improvement of standards of living in those areas, and
  - (iii) the development and conservation for agricultural purposes of water supplies and for soil improvement and conservation;
- (e) "Treasurer" means the Treasurer of Ontario and Minister of Economics. 1962-63, c. 1, s. 1, *amended*.

**2.—(1)** The Agricultural Rehabilitation and Development Directorate of Ontario is continued as a body corporate responsible to the Minister. 1962-63, c. 1, s. 2 (1), *amended*.

Agricultural  
Rehabilita-  
tion and  
Development  
Directorate  
of Ontario  
continued

(2) The Directorate shall consist of three or more members appointed by the Lieutenant Governor in Council.

Composition  
of  
Directorate

(3) The Lieutenant Governor in Council shall designate one of the members of the Directorate as chairman and one as vice-chairman.

Chairman,  
vice-  
chairman

## Quorum

(4) A majority of the members of the Directorate constitutes a quorum, whether or not a vacancy exists in the membership of the Directorate.

## Officers and employees

(5) The Lieutenant Governor in Council may appoint such officers, clerks and employees as are necessary for the conduct of the affairs of the Directorate. 1962-63, c. 1, s. 2, (2-5).

## Powers of Directorate

**3.—**(1) Subject to the approval of the Lieutenant Governor in Council, the Directorate has power,

- (a) to acquire or lease lands for the purpose of projects;
- (b) to equip and develop lands for projects;
- (c) to enter into agreements with persons for use of things or services provided under projects;
- (d) to carry out projects in respect of which agreements have been entered into by the Minister under this Act; and
- (e) to do such acts as are necessary or expedient for the carrying out of its operations and undertakings.

## Delegation of powers

(2) The Directorate may, in respect of any project, delegate to any department of the Government of Ontario, or to any municipal council, or to any authority under *The Conservation Authorities Act*, or to any board or commission whose members are appointed by the Lieutenant Governor in Council, any or all of the powers of the Directorate under subsection 1. 1962-63, c. 1, s. 3.

R.S.O. 1970,  
c. 78

## Power to borrow money and issue securities

(3) The Directorate has the power to borrow money and to issue securities for the purpose of carrying out any of its objects and to make such securities payable as to principal and interest at such time or times and in such manner and in such place or places as the Directorate determines.

Additional powers  
R.S.O. 1970,  
c. 89

(4) The Directorate, in carrying out its objects, has the powers set out in sections 24 and 305 of *The Corporations Act*. 1962-63, c. 1, s. 3, (3, 4).

## Provincial guarantee

**4.—**(1) The Lieutenant Governor in Council may authorize the Treasurer for and on behalf of Ontario to guarantee the payment of any securities issued by the Directorate, the repayment of any advances made by chartered banks to the Directorate and the payment of any other indebtedness incurred by the Directorate.

## Form of guaranty

(2) The form of any such guaranty and the manner of its execution shall be determined by the Lieutenant Governor in Council. 1962-63, c. 1, s. 4.

**5.** All moneys received by the Directorate from the operation of its undertakings or otherwise shall be applied to, Application of moneys

- (a) operating expenses;
- (b) payment of interest on indebtedness; and
- (c) a sinking fund established by the Treasurer for the repayment of securities guaranteed by the Treasurer under subsection 1 of section 4 and for the retirement of any other indebtedness of the Directorate,

and any surplus moneys remaining in any year after paying operating expenses and interest on indebtedness and repaying any part of the principal moneys payable in that year shall be used for reducing the cost of operating the projects or any of them, reducing the fees, rents or other charges charged or made by the Directorate or setting up such reserve funds as the Directorate determines. 1962-63, c. 1, s. 5.

**6.** The fiscal year of the Directorate commences on the 1st day of April in each year and ends on the 31st day of March in the following year. Fiscal year 1962-63, c. 1, s. 6.

**7.—**(1) The Directorate shall make a report annually to the Minister, including a report on all projects of the Directorate and the operations thereof and a financial statement certified by the Provincial Auditor and such other matters relating to the work of the Directorate as the Minister requires. Annual report

(2) A copy of the report shall be filed with the Minister who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Tabling 1962-63, c. 1, s. 7.

**8.** The accounts and financial transactions of the Directorate shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Directorate and to the Treasurer. Audit 1962-63, c. 1, s. 8.

**9.—**(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada providing for, Agreement with Canada for efficient use and economic development of lands

- (a) the undertaking jointly by the Government of Ontario or any agency thereof with Canada of projects for the more efficient use and economic development of lands specified in the agreement; or
- (b) the payment to Ontario of contributions in respect of the cost of such projects undertaken by Ontario or any agency thereof.

Programs  
of research  
and  
investigation

(2) The Minister may cause to be prepared and undertaken directly or in co-operation with Canada programs of research and investigation respecting the more effective use and economic development of lands in Ontario. 1962-63, c. 1, s. 9.

Agreement  
with  
Canada for  
development  
of income  
and  
employment  
opportunities  
and for  
improving  
standards of  
living in  
rural areas

**10.**—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada providing for,

- (a) the undertaking jointly on behalf of the Government of Ontario or any agency thereof with Canada of projects for the development of income and employment opportunities in rural areas specified in the agreement and for improving standards of living in those areas; or
- (b) the payment to Ontario of contributions in respect of the cost of such projects undertaken by Ontario or any agency thereof.

Programs  
of research  
and  
investigation

(2) For the purpose of assisting the development of income and employment opportunities in rural areas in Ontario and the improvement of standards of living in those areas, the Minister may cause to be prepared and undertaken with Canada programs of research and investigation, and may co-ordinate such programs with other similar programs being undertaken in Ontario. 1962-63, c. 1, s. 10.

Agreement  
with  
Canada  
for the  
development  
and  
conservation  
of water  
supplies  
and for soil  
improvement  
and  
conservation

**11.**—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada providing for,

- (a) the undertaking jointly with Canada of,
  - (i) projects for the development and conservation of water supplies for agricultural purposes, and
  - (ii) projects for soil improvement and conservation that will improve agricultural efficiency in Ontario or in any area thereof specified in the agreement; or
- (b) the repayment to Ontario of contributions in respect of the cost of such projects undertaken by Ontario or any agency thereof.

Programs  
of research  
and  
investigation

(2) The Minister may cause to be prepared and undertaken directly or in co-operation with Canada programs of research and investigation for the development and conservation of water supplies and for soil improvement and conservation in Ontario. 1962-63, c. 1, s. 11.

**12.** Every agreement entered into by the Minister shall,

Provisions  
to be  
included in  
agreements

- (a) specify the respective proportions of the cost of any project to which the agreement relates that shall be paid by the governments of Canada and of Ontario or the contribution in respect of any such project that shall be paid by Canada;
- (b) specify the authority that shall be responsible for the undertaking, operation and maintenance of any project or any part thereof to which the agreement relates;
- (c) specify the respective proportions of the revenues from any project to which the agreement relates that are to be paid to Canada and to Ontario; and
- (d) specify the terms and conditions as to the operation and maintenance of any project to which the agreement relates and the charges, if any, to be charged to persons to whom any of the benefits of the project are made available. 1962-63, c. 1, s. 12.

**13.** The moneys required for the cost of administration of this Act shall be paid out of moneys appropriated therefor by the Legislature. 1962-63, c. 1, s. 13, *amended*.

Cost of  
administra-  
tion

**14.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the establishment of advisory committees and the appointment of the members thereof and the payment of the remuneration and expenses of such members in the carrying out of their duties;
  - (b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 1, s. 14.
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## CHAPTER 13

**The Agricultural Representatives Act**

**1.** The Lieutenant Governor in Council, upon the recommendation of the Minister of Agriculture and Food, may appoint as agricultural representatives persons who have graduated from a university or agricultural college approved by the Minister with the degree of Bachelor of Science in Agriculture, and every such agricultural representative shall be paid out of moneys appropriated by the Legislature for the purposes of this Act. R.S.O. 1960, c. 10, s. 1, *amended*.

Appointment  
of repre-  
sentatives

**2.** The Minister of Agriculture and Food may appoint assistants to agricultural representatives and may employ such clerical and other assistance as he considers necessary for the purposes of this Act. R.S.O. 1960, c. 10, s. 2, *amended*.

Assistants  
and  
clerks

**3.** The agricultural representatives shall perform such duties as the Minister of Agriculture and Food, or such officer of the Department of Agriculture and Food as he may designate, may from time to time direct, and any moneys appropriated by the Legislature for the purposes of this Act shall be expended subject to such direction. R.S.O. 1960, c. 10, s. 3, *amended*.

Duties and  
expenditure

**4.—(1)** The county council shall, in each year on or before a date to be fixed by the Minister of Agriculture and Food, pay into a bank to the credit of the agricultural representative in charge of each office in the county the sum of \$500 for the purpose of assisting in carrying on the work of the agricultural representative, and such sum shall be paid out from time to time by the agricultural representative with the approval of the Minister of Agriculture and Food or of the officer designated as provided in section 3. R.S.O. 1960, c. 10, s. 4 (1), *amended*.

County  
grants

**(2)** An annual statement of the disposition of the sum so set apart together with a statement of the work carried on by each agricultural representative in the county during the preceding year shall be furnished to the county council. R.S.O. 1960, c. 10, s. 4 (2).

Annual  
statement

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## CHAPTER 14

## The Agricultural Research Institute of Ontario Act

**1.** In this Act,Interpre-  
tation

- (a) "Director of Research" means the administrator of the Agricultural Research Institute of Ontario;
- (b) "Minister" means the Minister of Agriculture and Food;
- (c) "research" means research carried out and services provided in respect of agriculture, veterinary medicine and household science;
- (d) "Research Institute" means the Agricultural Research Institute of Ontario. 1961-62, c. 1, s. 1, *amended*.

**2.—**(1) The Agricultural Research Institute of Ontario is continued as a body corporate responsible to the Minister. 1961-62, c. 1, s. 2 (1), *amended*.

Agricultural  
Research  
Institute  
of Ontario  
continued

(2) The Research Institute shall consist of not more than fifteen members appointed by the Lieutenant Governor in Council.

Composition  
of Research  
Institute

(3) The Lieutenant Governor in Council shall appoint from the persons appointed under subsection 2 a chairman and a vice-chairman of the Research Institute.

Chairman,  
vice-  
chairman

(4) An appointment under subsection 2 shall be for a term of not more than three years but any person is eligible for reappointment.

Term of  
appointment

(5) When the term of a member of the Research Institute expires, he continues to be a member until his successor is appointed.

Expiration  
of term

(6) A majority of the members of the Research Institute constitutes a quorum.

Quorum

(7) The vice-chairman shall, in the absence or disability of the chairman, possess and exercise the powers and duties of the chairman.

Absence of  
chairman

(8) The members of the Research Institute shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. 1961-62, c. 1, s. 2 (2-8).

Remunera-  
tion

Duties of  
Research  
Institute

**3.** The duties and responsibilities of the Research Institute are,

- (a) to make rules governing its procedures;
- (b) to appoint an executive committee and such other committees as it considers advisable and to delegate to any such committee any of its duties and responsibilities;
- (c) to inquire into programs of research in respect of agriculture, veterinary medicine and household science;
- (d) to select and recommend areas of research for the betterment of agriculture, veterinary medicine and household science; and
- (e) to stimulate interest in research as a means of developing in Ontario a high degree of efficiency in the production and marketing of agricultural products. 1961-62, c. 1, s. 3.

## Property

**4.—(1)** All property heretofore or hereafter granted, conveyed, devised or bequeathed for purposes of research to, or to any person in trust for, any institution of the Department of Agriculture and Food that is engaged in research is vested in the Research Institute, subject to any trust affecting the same. 1965, c. 1, s. 1, *amended*.

Moneys for  
research

(2) The Research Institute may take by gift, grant, donation or bequest moneys for use in research.

## Idem

(3) Moneys received by the Research Institute under subsection 2 shall be held in trust by the Director of Research and shall be allocated for programs of research in accordance with the terms, if any, of the gift, grant, donation or bequest. 1961-62, c. 1, s. 4 (2, 3).

## Expenditure

**5.** Except with the approval of the Minister, the Research Institute shall not incur any liability or make any expenditure that is not provided for in the income for the Research Institute unless provided for by moneys appropriated therefor by the Legislature or for which funds otherwise have been furnished therefor. 1961-62, c. 1, s. 5.

Audit of  
accounts

**6.** The accounts of the Research Institute are subject to audit by the Provincial Auditor. 1961-62, c. 1, s. 6.

Annual  
report

**7.** The Research Institute shall submit an annual report on its affairs to the Minister, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1961-62, c. 1, s. 7.



**8.** The Research Institute shall submit to the Minister such reports on its financial affairs and the progress of its work as the Minister from time to time requires. 1961-62, c. 1, s. 8.

Other  
reports

**9.—(1)** There shall be a Director of Research appointed by the Lieutenant Governor in Council who shall be the administrator of the business and affairs of the Research Institute.

Director  
of Research

**(2)** The duties and responsibilities of the Director of Research are,

Duties of  
Director

- (a) to co-ordinate programs of research of the Research Institute with programs in comparable areas of research by other institutions and organizations;
- (b) to select, develop and maintain research programs in accordance with the needs of agriculture, veterinary medicine and household science in Ontario;
- (c) to maintain a balance of effort in research among various areas of research;
- (d) to inquire into the efficiency of programs of research undertaken in conjunction with academic work at other institutions of learning and research in Ontario;
- (e) to establish the operational budgets of the Research Institute for programs of research in agriculture, veterinary medicine and household science at the Ontario Agricultural College, the Ontario Veterinary College and the Macdonald Institute or any of them and at institutions of the Department of Agriculture and Food that are engaged in research and at other institutions in Ontario where the facilities and personnel are available for such programs; and
- (f) to determine matters of integration of research with the academic work of the Ontario Agricultural College, the Ontario Veterinary College and the Macdonald Institute and institutions of learning and research that are administered by the Department of Agriculture and Food. 1961-62, c. 1, s. 9, *amended*.

**10.** The Director of Research shall have supervision over every program of research for which funds have been supplied by the Research Institute. 1961-62, c. 1, s. 10.

Idem

**11.** The Director of Research shall prepare and submit to the Minister an estimate of all expenditures required during the next ensuing year. 1961-62, c. 1, s. 11.

Estimates of  
expenditures

**12.—(1)** There shall be a Comptroller for the Research Institute who is responsible to the Director of Research.

Comptroller

Duties of  
Comptroller

(2) The Comptroller shall,

- (a) supervise the business affairs of the Research Institute;
- (b) prepare the budget for the Research Institute;
- (c) prepare such financial reports and statistical surveys as may be required by the Director of Research or by the Minister; and
- (d) perform such other duties and functions as may be assigned to him from time to time by the Director of Research or by the Research Institute. 1961-62, c. 1, s. 12.

Power to  
acquire  
patents, etc.

**13.** Subject to the approval of the Minister, the Research Institute may purchase or arrange for the use of any invention or any interest therein, or any rights in respect thereof, or any secret or other information as to any invention, and apply for, purchase or otherwise acquire, any patents, interest in patents, licences or other rights conferring any exclusive or non-exclusive or limited right to make, use or sell any invention or inventions and to use, exercise, develop, dispose of, assign or grant licences in respect of or otherwise turn to account the property rights or information so acquired, and possess, exercise and enjoy all the rights, powers and privileges that the owner of any invention or any rights in respect thereof or the owner of a patent or invention or of any rights thereunder may possess, exercise and enjoy. 1961-62, c. 1, s. 13.

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## CHAPTER 15

## The Agricultural Societies Act

**1.** In this Act,Interpre-  
tation

- (a) “board” means the board of a society;
- (b) “Department” means the Department of Agriculture and Food;
- (c) “headquarters” means the place named as the headquarters in the declaration forming a new society or the place approved or named as the headquarters by the Minister or the place where a society held its last annual exhibition;
- (d) “Minister” means the Minister of Agriculture and Food;
- (e) “society” means an agricultural society organized under this Act or under any predecessor of this Act;
- (f) “Superintendent” means the Superintendent of Agricultural Societies. R.S.O. 1960, c. 11, s. 1; 1970, c. 70, s. 1 (1).

**2.** The Minister may decide all matters of doubt or dispute arising in the operation or construction of this Act and his decision is final, subject to an appeal to the Lieutenant Governor in Council. R.S.O. 1960, c. 11, s. 2.

Powers of  
Minister

**3.—**(1) Subject to subsection 2, a society may be organized with headquarters at any place in Ontario.

Organiza-  
tion

(2) When it is proposed to organize a society with headquarters within twenty-five miles of an existing society, the officers of the existing society shall be afforded a reasonable opportunity to make recommendations to the Minister regarding the advisability of organizing the proposed society, and the Lieutenant Governor in Council may, upon the recommendation of the Minister, grant permission for the organization of the proposed society. R.S.O. 1960, c. 11, s. 3.

Recommen-  
dations of  
existing  
society**4.** The mode of organization shall be as follows:Mode of  
organization:  
declaration

- 1. A declaration in the form prescribed by the Minister shall be signed by the persons who desire to organize a society, but such persons must be of the age of eighteen years or over and must reside within ten miles of the place designated in the declaration as the headquarters of such society.

signatories  
to declara-  
tion

2. The declaration shall be signed by at least sixty persons, but, in a provisional judicial district or provisional county, the number required to sign the declaration shall be forty.

fees payable  
by signa-  
tories

3. Every person who signs the declaration shall pay to the person having charge thereof the sum of not less than \$1 at the time of signing the declaration and all such sums of money become the property of the society upon its organization, but, where no society is organized, such sums shall be repaid to the persons entitled thereto.

transmitting  
declaration

4. Within one month after the required number of persons have signed the declaration, the declaration shall be forwarded to the Superintendent who may, with the approval of the Minister, authorize any person to call a meeting for the organization of the society.

calling first  
meeting

5. Such organization meeting shall be held during the month of January, or at such other time as the Superintendent may authorize, upon at least two weeks notice published in a newspaper having a general circulation in the district surrounding the headquarters of the society and by mailing a notice by prepaid mail to each person who has signed the declaration.

quorum

6. At the organization meeting and at every annual and special meeting of a society, fifteen members shall form a quorum.

election of  
officers

7. At the organization meeting there shall be elected a board of twelve directors who shall hold office until the next annual meeting or until their successors are elected, and such directors shall elect a president, a first vice-president and a second vice-president from among themselves.

board

8. The board shall consist of the directors and the president, first vice-president and second vice-president.

auditors

9. At the organization meeting there shall be elected two auditors who shall hold office until the next annual meeting.

transmission  
of report of  
organization  
meeting

10. A report of the organization meeting, certified by the president, the secretary and the organizer, containing a statement of the members and a list of the officers elected and appointed, shall be sent to the Superintendent within one week after the holding of the meeting. R.S.O. 1960, c. 11, s. 4.

**5.**—(1) Upon receipt of the report mentioned in paragraph 10 of section 4, the Superintendent, with the approval of the Minister, may declare such society to be a society within the meaning of this Act and such society shall bear the name designated in the declaration as the headquarters or such other name as is determined by the members and approved by the Minister.

Declaration  
of society

(2) In case of a dispute as to the name of a society or in a case where in the opinion of the Minister the name of a society prejudicially affects the interest of another society, he may change the name of the society. R.S.O. 1960, c. 11, s. 5.

Change of  
name

**6.**—(1) Every person is entitled to be a member of a society, but no person under eighteen years of age is eligible to vote at any meeting of the society or to hold office in the society.

Persons  
entitled to  
membership

(2) Subject to the by-laws of a society, a firm or an incorporated company may become a member thereof by the payment of the regular fee, but the name of one person only shall in any one year be entered as the representative or agent of such firm or company, and that person only shall exercise the privileges of membership in the society.

Firms and  
companies  
may be  
members

(3) In every society there shall be an annual membership fee of not less than \$1. R.S.O. 1960, c. 11, s. 6.

Membership  
fee

**7.**—(1) Upon the recommendation of the Superintendent, the Minister may authorize any society to elect not more than six additional directors and not more than six junior directors not over twenty-six years of age.

Additional  
directors

(2) Where a society is authorized to elect more than twelve directors, it may elect all of its directors in rotation, but in that case no director shall be elected for a term of more than three years.

Election of  
directors  
in rotation

(3) Any society may appoint not more than six honorary directors, but no such honorary director is entitled to vote or take part in meetings of the board. R.S.O. 1960, c. 11, s. 7.

Honorary  
directors

**8.**—(1) The objects of a society are to encourage interest, promote improvements in, and advance the standards of, agriculture, domestic industry and rural life by,

Objects of  
society

- (a) surveying and studying the agricultural and living conditions and by doing such acts as may assist in solving the rural economic and social problems of the district surrounding the headquarters of the society;
- (b) organizing and holding agricultural exhibitions and awarding premiums and exhibiting displays of farm products thereat;



- (c) holding public meetings and demonstrations for the purpose of discussing agricultural problems;
- (d) taking action to eradicate poisonous and noxious insects, weeds, animal parasites and diseases;
- (e) encouraging and promoting reforestation and rural beautification;
- (f) encouraging young people to become interested in and adopt better agricultural and domestic practices and for such purposes to hold competitions;
- (g) holding races or trials of speed for horses. R.S.O. 1960, c. 11, s. 8 (1); 1970, c. 70, s. 2.

When grant  
forfeited

(2) A society that expends any of its funds in a manner inconsistent with the objects set out in subsection 1 forfeits all claims to participate in any legislative grant. R.S.O. 1960, c. 11, s. 8 (2).

Annual  
meeting

**9.**—(1) Every society shall hold an annual meeting during the month of January at such time and place as the board determines or, subject to the approval of the Superintendent, at such other time and place as are fixed by the by-laws of the society.

Who may  
vote

(2) At any such meeting only those members who were members of the society during the previous year and who have paid the membership fee for the current year are entitled to vote.

Notice of  
annual  
meeting

(3) At least two weeks notice of every annual meeting shall be given by publication of a notice of the meeting in at least one newspaper having a general circulation in the municipality in which the headquarters of the society is situate and by mailing notices of the meeting to every member of the society at the address furnished to the secretary.

Minister  
may appoint  
time for  
meeting

(4) Where a society fails to hold its annual meeting at the time mentioned in subsection 1, the Minister may appoint a time and place for holding it. R.S.O. 1960, c. 11, s. 9.

Procedure at  
annual  
meeting

**10.** At every annual meeting,

- (a) the board shall present a report of the activities and accomplishments of the society since the last annual meeting and a detailed statement of the receipts and expenditures since the last annual meeting and a statement of the assets and liabilities of the society, certified by the auditors, in the form prescribed by the Minister; and
- (b) the officers and other members of the board, including the auditors, shall be elected and appointed in the

manner provided by section 4 and any additional, honorary and junior directors shall be elected and appointed. R.S.O. 1960, c. 11, s. 10.

**11.**—(1) A statement of officers and members and a copy of the report and financial statement in the form prescribed by the Minister and certified by the president, secretary and treasurer, or secretary-treasurer and auditors to be true copies shall be forwarded to the Superintendent within one month after the holding of the annual meeting. Statement to be sent to Superintendent

(2) The officers of every society shall, on or before the 1st day of March in every year, forward to the Superintendent a return in the form prescribed by the Minister verified by an affidavit of an officer of the society showing the amount expended during the previous year by the society for agricultural purposes. R.S.O. 1960, c. 11, s. 11 (1, 2). Annual returns

(3) Where a society exhibits a display of a farm product that is produced on a commercial basis or holds a field-crop or other competition and such display or competition is approved by the Superintendent, the officers of the society shall within ninety days thereafter forward to the Superintendent on a form supplied by the Department a statement showing the particulars of the display or the competition, the number of entries, and the expenditures, including prizes awarded, in connection therewith. R.S.O. 1960, c. 11, s. 11 (3); 1970, c. 70, s. 3. Statement as to competitions

(4) Any officer of a society who wilfully makes a false statement in any report or statement required to be furnished under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 or to imprisonment for not more than thirty days, but no prosecution under this subsection shall be commenced later than one year after the making of such report or statement. R.S.O. 1960, c. 11, s. 11 (4). Penalty for false statement

**12.** On the petition of thirty members of a society, the secretary, and in his absence, the president or first vice-president, shall call a special general meeting for the transaction of the business mentioned in the petition and the meeting shall be advertised in the manner prescribed by subsection 3 of section 9 and the advertisements shall state the nature of the business to be transacted. R.S.O. 1960, c. 11, s. 12. Special meeting

**13.** The Minister may at any time require any society or any officer of a society to furnish such information regarding the society as he considers necessary or desirable and such information shall be accompanied by an affidavit of all or any of the officers of the society deposing to its accuracy. R.S.O. 1960, c. 11, s. 13. Minister may require information

Dissolution  
in certain  
instances

**14.**—(1) In the event of failure to hold the annual meeting of a society in accordance with this Act, or in the event that the number of members of a society on the 1st day of September in any year is less than the number required for organization, the society is not entitled to receive any further legislative grant and shall be deemed to be dissolved, subject always to the direction of the Minister, and the persons comprising the board during the last year of the existence of the society shall be trustees of the assets of the society and shall forthwith deliver to the Superintendent a statement of the assets and liabilities of the society.

Payment of  
debts on  
dissolution

(2) Subject to the approval of the Minister, the Superintendent may direct the members of the board to pay the debts of the society out of the moneys and other assets remaining in their hands and to liquidate any of the assets for such purpose.

Disposition  
of assets  
after debts  
paid

(3) Subject to the approval of the Minister, any moneys and other assets remaining after the payment of debts shall be disposed of by the board in such manner as they determine.

Reorganiza-  
tion

(4) When a society dissolves or ceases to exist, it may be reorganized *mutatis mutandis* in the manner prescribed by section 4. R.S.O. 1960, c. 11, s. 14.

Meetings  
of board

**15.** A meeting of the board shall be called by the secretary upon the direction of the president, or in his absence by the first vice-president, or in the absence of the president and the first vice-president, by the second vice-president, or by any three members of the board, by sending notice thereof to all the members of the board at least seven days before the time fixed for the meeting, but a meeting of the board may be held without notice immediately following any annual, regular or special meeting of the society. R.S.O. 1960, c. 11, s. 15.

Powers of  
board

**16.**—(1) Subject to the by-laws and regulations of the society, the board has power to act for and on behalf of the society in all matters.

Quorum

(2) Seven of the members of the board constitute a quorum.

Filling  
vacancies

(3) In the event of a vacancy occurring on the board by the death or resignation of any officer or director or otherwise, the remaining members of the board have power to appoint any member of the society to fill the vacancy, but, when three or more vacancies occur at the same time, the Superintendent may order the remaining members of the board to call a special general meeting of the society in the manner prescribed by section 9 and directors shall be elected and appointed at such meeting to fill the vacancies.

Executive  
committee

(4) The board, from among themselves, may appoint an executive committee of not more than five members to exercise and perform such of its powers and duties as the board prescribes.

(5) The board may appoint a manager to perform such of its powers and duties as it prescribes. Manager

(6) The board, from among themselves or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and the secretary or secretary-treasurer shall be a member of every committee that is appointed by the board and may be appointed managing director acting under the control and with the approval of the board. Secretary,  
treasurer

(7) No officer of a society, except the secretary, treasurer, secretary-treasurer or manager, shall receive any remuneration, but travelling and living expenses may be allowed to any officer while engaged in duties on behalf of the society and the board may fix such remuneration and travelling and living expenses, which shall be payable out of the funds of the society. R.S.O. 1960, c. 11, s. 16. Salaries

**17.** Subject to section 9, the board may determine what regular or special meetings of the society are to be held during each year. R.S.O. 1960, c. 11, s. 17. Meetings

**18.**—(1) The treasurer or secretary-treasurer of every society, before entering upon the duties of his office, shall give such security to the society, either by joint or several covenant with one or more sureties, in such form and for such amount as the board considers necessary for the faithful performance of his duties, and especially for the due accounting for and paying over of all moneys that come into his hands. Security by  
treasurer of  
society

(2) It is the duty of the board in each year to inquire into the sufficiency of the security given by the treasurer or secretary-treasurer and to report thereon to the society, and, where the same treasurer or secretary-treasurer is reappointed from year to year, his re-appointment shall not be considered as a new term of office but as a continuation of the former appointment and any security given to the society for the faithful performance of his duties under such reappointment continues valid as against the parties thereto. Duty of  
board as to  
security

(3) If the board neglects to procure and maintain proper and sufficient security, each member thereof is personally responsible for all funds of the society that may have been received by the treasurer. R.S.O. 1960, c. 11, s. 18. Personal  
responsi-  
bility of  
officers for  
loss

**19.**—(1) By-laws and regulations of a society may be made, adopted, amended or repealed at any organization, annual or regular meeting of the society or at a special meeting of which notice has been given in the manner provided by subsection 3 of section 9. By-laws and  
regulations



Preventing certain performances, huckstering, etc.

(2) The officers of a society may by their rules and regulations prohibit and prevent theatrical, circus or acrobatic performances, exhibitions or shows and may also regulate or prevent the huckstering or trafficking in fruit, goods, wares or merchandise on the exhibition grounds or within three hundred yards thereof on the day of an exhibition, and any person who, after notice of such rules and regulations, contravenes any provisions thereof is liable to be removed by an officer of the society or a constable and is liable to the penalties provided in this Act. R.S.O. 1960, c. 11, s. 19.

Incorporation and power to hold land

**20.**—(1) Every society is a body corporate with power to acquire and hold land as a site or as an enlargement of an existing site, and the society has and may exercise the like powers as to lands required for the enlargement of an existing site as in the case of lands required for the original site, for fairs and exhibitions, and, subject to the approval of a meeting of the society called for that purpose, may sell, mortgage, lease or otherwise dispose thereof or of any other property held by the society, but no lands of a society shall be mortgaged without the written approval of the Superintendent.

Notice of meetings to consider disposition of property

(2) At least two weeks previous notice of such meeting shall be given by advertisement in at least one newspaper having a general circulation in the area surrounding the headquarters of the society, and at such meeting only those persons are entitled to vote who are members for the current year and who were members for the two previous years. R.S.O. 1960, c. 11, s. 20.

Power to expropriate land

R.S.O. 1970, c. 154

**21.** Subject to the approval of the Minister, a society may expropriate land selected as a site for fairs and exhibitions or as an enlargement of an existing site, and approved therefor at a meeting of the society called for that purpose, in accordance with *The Expropriations Act*, and the provisions of that Act apply to any expropriation under this section. 1970, c. 70, s. 4.

Joint ownership of lands with municipality

**22.** Any township society and town or village municipality that had, before the 4th day of March, 1868, jointly purchased and held any land or building for the purpose of agricultural fairs or exhibitions may continue jointly to hold the land or building, or may sell, mortgage, lease or otherwise dispose thereof, subject to the approval of a meeting of the society as provided in section 20. R.S.O. 1960, c. 11, s. 22.

Provincial grants

**23.** On the recommendation of the Minister, every society is entitled to receive a grant out of the moneys appropriated by the Legislature for that purpose on condition,

- (a) that the number of paid-up members for the current year is not less than sixty, except in the case of societies



organized in provisional judicial districts and a provisional county where the number of paid-up members shall not be less than forty;

- (b) that all reports and returns required by this Act have been made to the satisfaction of the Superintendent;
- (c) that the annual meeting has been held as required and the officers elected in accordance with section 10;
- (d) that the objects of the society as prescribed by section 8 have been strictly adhered to, and that none of the funds of the society, from whatever source derived, have been expended in any manner not in harmony with such objects; and
- (e) that all other provisions of this Act have been complied with. R.S.O. 1960, c. 11, s. 23, *amended*.

**24.**—(1) Grants shall be paid to societies out of moneys appropriated for the purpose by the Legislature, except the moneys appropriated under sections 25 and 26, according to the following plan: Payment of grants

1. A newly-organized society, during the first three years of its existence, shall receive a grant each year equal to \$1 per member up to 300 members.
2. Where a society complies with subsection 3 of section 11 and its statement is satisfactory to the Superintendent, it shall receive a grant equal to one-half the sum expended by the society, as shown by the statement of its expenditures, for the display or competition, but in no case shall the grant be more than \$200 for a display or more than \$75 for a competition.
3. Where a society complies with subsections 1 and 2 of section 11 and its statement is satisfactory to the Superintendent, it shall receive a grant equal to one-third of the average amount expended by the society during the three preceding years for agricultural purposes, as shown in the statements forwarded to the Superintendent, but,
  - i. societies in provisional judicial districts and a provisional county shall receive their grants on the basis of double the amount of other societies, and
  - ii. no society shall in any year receive a grant in excess of \$1,500. 1961-62, c. 2, s. 1, *amended*.

(2) If the Superintendent, upon receiving proof on or before the 31st day of October in any year, by the joint affidavit of the president, secretary and treasurer or secretary-treasurer of an agricultural society, that rain or snow fell at the place of holding Allowance where gate receipts reduced

an exhibition before 3 o'clock in the afternoon on any day during which the exhibition was held or that during the exhibition or within thirty days prior thereto one or more buildings on the exhibition grounds was destroyed by fire or storm, is satisfied that as a consequence of such weather or such destruction the gate receipts were less than the average gate receipts for exhibitions held by the society during three previous normal years, the society is entitled to receive a grant of not more than 90 per cent of the difference between the gate receipts of the current year and the average amount of the gate receipts of such three previous years, but no society shall in any year receive a grant in excess of \$1,000 for any such loss in gate receipts. R.S.O. 1960, c. 11, s. 24 (2); 1970, c. 70, s. 5 (1).

Grant where  
gate receipts  
reduced  
owing to wet  
weather

(3) In the event of a society that has been organized for only two years suffering loss in gate receipts owing to wet weather, it shall receive a grant equal to 75 per cent of the difference between the gate receipts of the current year and those of the previous year, and, in case of loss of gate receipts from the above cause during the third year of a society's existence, the grant shall be 75 per cent of the difference between the gate receipts of that year and those of the average of the two previous years, but no society shall in any year receive a grant in excess of \$1,000 for any such loss in gate receipts. R.S.O. 1960, c. 11, s. 24 (3); 1970, c. 70, s. 5 (2).

Decrease in  
grants

(4) Where the moneys appropriated by the Legislature are insufficient to pay the grants under subsections 2 and 3, the grants shall be decreased *pro rata*. 1970, c. 70, s. 5 (3).

Special aid  
to certain  
exhibitions

**25.** The money that is appropriated by the Legislature for the purpose of this section shall be divided among The Canadian National Exhibition Association of Toronto, The Central Canada Exhibition of Ottawa, and The Western Fair Association of London in proportion to the amount of money expended for agricultural purposes by such associations as mentioned in section 8, provided,

- (a) that not more than \$2,500 shall be paid to any such association;
- (b) that returns have been made to the Superintendent similar to those prescribed by section 11 in a manner satisfactory to the Superintendent;
- (c) that no other grants have been received under this Act; and
- (d) that the Minister has approved such grant,

but no such society shall in any year receive a grant in excess of 50 per cent of the moneys appropriated by the Legislature for the purpose of this section for such year. R.S.O. 1960, c. 11, s. 25.

**26.** The Minister may make annual grants on account of capital expenditure to any society or class of society in such amounts and on such terms and conditions as the regulations prescribe out of such moneys as are appropriated therefor by the Legislature. R.S.O. 1960, c. 11, s. 26.

Annual grants on account of capital expenditure

**27.**—(1) Any municipal council may grant or loan money or grant land in aid of any agricultural society formed within the limits of the municipality, or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such society has made the returns required by this Act, but the total amount or value of the money or land granted or loaned by any municipality to an agricultural society under this section shall not exceed \$5,000 in the case of a city, \$2,000 in the case of a town, and \$1,000 in the case of a village.

Grants from municipal councils

(2) If the grant is a loan of money to enable the society to acquire land, the municipality may hold the land so acquired or may take a mortgage thereon as security for the amount of the grant until the amount of the grant is repaid to the municipality.

Security for loans from municipalities

(3) Any such municipality owning land or buildings for public purposes may make agreements on such terms and for such periods as it considers expedient with any company formed under chapter 196 of the Revised Statutes of Ontario, 1897, or under any enactment that may be substituted therefor, or with any agricultural society for the use of such land or buildings, or either of them, or for the privilege of erecting upon such land, subject to such terms as may be agreed upon, such buildings as it may require for agricultural and industrial shows, and to give the company the power of renting such land and buildings, when owned by the company, to any agricultural society formed under this Act for the purposes of the annual show of the society, and to grant to such company or society the power to collect during such show, or at other times, as may be agreed, from any person wishing to go into or upon any such land or buildings, or for any privilege thereon, or for any carriage, wagon or other vehicle, or for any horse or other animal that may be taken thereon, such entrance fee or other charge as the company or society considers necessary or expedient.

Agreements as to use of buildings

(4) Any municipality may pass by-laws providing for the erection of buildings upon parks, fair grounds or other property belonging to the municipality for the joint purposes of the municipality and of any agricultural society, or other body, or trustees for any club or society, upon such agricultural society, other body, or trustees undertaking to contribute to the cost of such buildings, and in such case the municipality may grant leases for a term not exceeding twenty-one years to such agricultural

By-laws for common use of buildings on municipal property

society, other body, or trustees, for the use of such buildings at such time as to the council seems proper, and upon such terms as may be arranged with the council, and the powers hereby granted may be exercised in respect of any building erected since the 1st day of January, 1919. R.S.O. 1960, c. 11, s. 27.

Exemption  
from  
taxation

**28.** The property of an agricultural society is exempt from taxation, other than taxes for local improvements, when in actual occupation by the society or by its tenants if the rent is applied solely for the purposes of the society. R.S.O. 1960, c. 11, s. 28.

Regulations

**29.** The Lieutenant Governor in Council may make regulations,

- (a) providing the terms and conditions upon which societies may hold races or trials of speed for horses and the amount of money that societies may award as prizes therefor;
- (b) subject to section 23, prescribing the terms and conditions upon which societies may receive grants out of the moneys appropriated by the Legislature;
- (c) limiting the exhibitors of any society to persons residing within defined areas;
- (d) prescribing the powers and duties of the officers of societies;
- (e) classifying societies that are societies within the meaning of this Act and designating the class to which each society belongs;
- (f) prescribing the terms and conditions on which grants may be made to any society or class of society on account of capital expenditure and prescribing the amounts of such grants or the minimum or maximum amounts of such grants;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 11, s. 29.

Appointment  
of  
constables

**30.—(1)** Any justice of the peace having jurisdiction in a city, town, village or township in which a fair or exhibition is held, shall, on the request of the president or executive committee of a society, appoint as many constables as may be required.

Duty of  
constables

(2) Such constables shall be paid by the society and it is their duty to protect the property of the society within the exhibition grounds and to eject all persons who may be improperly within the grounds or behave in a disorderly manner or violate any of the rules or regulations of the society.



(3) Every person who wilfully hinders or obstructs the officers or servants of a society or a constable appointed under this section in the execution of their duties, or who gains admission to the grounds contrary to the rules of the society, is guilty of an offence and on summary conviction is liable to a fine of not less than \$1 and not more than \$20 to be paid to the society for its use and benefit. R.S.O. 1960, c. 11, s. 30.

Interfering  
with  
officers,  
penalty

**31.** The Minister may appoint a person to inspect the books and accounts of any society receiving legislative grants under this Act, and may empower such person to summon witnesses and enforce the production of documents before him and to take evidence upon oath in regard to the matters under inspection, and every officer of a society shall, when required, submit the books and accounts thereof to such inspection. R.S.O. 1960, c. 11, s. 31.

Inspection

**32.** Where the board of a society has reason to believe that any member or other person exhibiting any farm product, animal, fowl or other goods at an exhibition of the society has committed a fraud or made any misrepresentation in respect of any such farm product, animal, fowl or other goods, the board may withhold payment or delivery of any premium or prize to such person until such person proves to the satisfaction of the board that no fraud or misrepresentation has in fact been committed or made. R.S.O. 1960, c. 11, s. 32.

Fraud or  
misrepresentation by  
an exhibitor

**33.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where no other penalty is provided, is liable to a fine of not more than \$50. R.S.O. 1960, c. 11, s. 33.

Offence

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## CHAPTER 16

**The Air Pollution Control Act****1. In this Act,**Interpre-  
tation

- (a) “air contaminant” means a solid, liquid, gas, odour, or combination of any of them, that contributes to air pollution;
- (b) “air pollution” means the presence in the outdoor atmosphere of any air contaminant or contaminants in quantities that may cause discomfort to or endanger the health or safety of persons, or that may cause injury or damage to property or to plant or animal life or that may interfere with visibility or the normal conduct of transport or business;
- (c) “Board” means The Air Pollution Control Advisory Board;
- (d) “construct” includes the erection, reconstruction, installation, alteration or modification of a stationary source of air pollution and the replacement of any part thereof, but does not include routine maintenance;
- (e) “Department” means the Department of Energy and Resources Management;
- (f) “Minister” means the Minister of Energy and Resources Management;
- (g) “motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a highway;
- (h) “operator” means the person in occupation or having the charge, management or control of any land or premises on or in which a source of air pollution is located, whether on his own account or as the agent of any other person;
- (i) “owner” includes the person for the time being receiving the rent of the land or premises on or in which a source of air pollution is located, whether on his own account or as agent or trustee of any other person;
- (j) “provincial officer” means a person who is designated by the Minister as a provincial officer for the purposes of this Act and the regulations;
- (k) “regulations” means the regulations made under this Act;

- (*l*) “stationary source of air pollution” means any equipment, apparatus, device, mechanism or structure, except a motor vehicle, that may be a source of air pollution. 1967, c. 2, s. 1; 1968-69, c. 2, s. 1.

Powers and  
duties of  
Minister

**2.** The Minister, for the purposes of the administration and enforcement of this Act and the regulations, may,

- (a) investigate air pollution problems;
- (b) conduct research in the field of air pollution;
- (c) conduct air quality and meteorological studies and monitoring programs;
- (d) convene conferences, conduct seminars and educational programs in the field of air pollution;
- (e) publish and disseminate information on air pollution;
- (f) make grants,
  - (i) to universities and other organizations for research and training of persons in the field of air pollution, and
  - (ii) to municipalities to assist in the administration and enforcement of air pollution by-laws,
 in such amounts and upon such terms and conditions as the regulations may prescribe;
- (g) appoint committees to perform such advisory functions as the Minister considers desirable. 1967, c. 2, s. 2.

Delegation  
of powers  
to officer

**3.** The Minister may authorize any officer or officers of the Department to exercise and discharge in his place any of the powers conferred or duties imposed upon him under this Act, except sections 6 and 10, or under the regulations. 1967, c. 2, s. 3.

Advisory  
Board

**4.—(1)** A board to be known as “The Air Pollution Control Advisory Board” shall be established consisting of not more than twelve members appointed by the Lieutenant Governor in Council as the regulations prescribe, one of whom may be designated as chairman and one as secretary.

Members

(2) The composition of the Board shall be such as to provide for competent and knowledgeable persons in the engineering, medical, urban planning, industry, agricultural and labour fields and members at large.

Oath of  
office and  
secrecy

(3) No member, servant or employee of the Board may serve until he takes and subscribes before the Minister an oath of office and secrecy in the following form:

I, ....., do swear that I will faithfully discharge my duties as a member of The Air Pollution Control Advisory Board and, except as I may be legally authorized or required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my duties as a member of The Air Pollution Control Advisory Board.

So help me God.

(4) Vacancies in the membership of the Board may be filled by the Lieutenant Governor in Council. Vacancies

(5) The Board shall review and report upon the recommendations of a provincial officer and perform such other duties and functions as the Minister may direct. 1967, c. 2, s. 4. Duties of Board

**5.**—(1) The Minister may designate officers of the Department as provincial officers for the purposes of this Act and the regulations. Provincial officers

(2) A provincial officer may enter in or upon any land or premises at any reasonable time and make or require to be made such examinations, tests and inquiries as may be necessary or advisable for the purposes of this Act or the regulations. Powers of provincial officers

(3) Every operator and owner shall furnish such information as a provincial officer requires for the purposes of this Act or the regulations. 1967, c. 2, s. 5. Information

(4) No person shall obstruct a provincial officer in the exercise of his powers under this section. 1968-69, c. 2, s. 2. Obstructing provincial officer

**6.**—(1) Any person who complains that it is not feasible or practicable to comply with a certificate of approval or order issued or made under this Act may request the Minister to review the certificate or order, and the Minister may review, rescind or alter any such certificate or order. Power to review, etc.

(2) If after a review by the Minister any person complains that it is still not feasible or practicable to comply with the certificate of approval or order, he may, within fifteen days after receipt of the decision of the Minister, appeal to a judge of the county or district court of the county or district in which the source of air pollution in respect of which the certificate or order was issued or made is located, and such appeal shall be a hearing *de novo*, and the judge may dismiss the appeal or rescind or alter any such certificate or order and his decision is final. 1967, c. 2, s. 6. Appeal to judge

**7.**—(1) No person shall construct a stationary source of air pollution unless he has obtained from the Minister a certificate of approval to the method and devices to be employed to control the emission of any air contaminant into the outdoor atmosphere from the source and to prevent air pollution. Approval to creation of new stationary source of air pollution required

Application,  
plans, etc.

(2) An applicant for a certificate of approval shall submit to the Minister such plans, specifications and other information with respect to the source of air pollution as the Minister may require.

Certificate  
of approval

(3) The Minister may issue a certificate of approval subject to such terms and conditions respecting the method and devices to be employed for the control of the emission of any air contaminant into the outdoor atmosphere from the source of air pollution, and for the prevention of air pollution as the Minister considers necessary. 1967, c. 2, s. 7.

Construction  
in  
accordance  
with  
approval

(4) No person shall construct a stationary source of air pollution except in accordance with the plans, specifications, methods and devices in respect of which the certificate of approval was issued.

Expiration  
of  
certificate  
of approval

(5) A certificate of approval expires one year after it is issued unless the construction in respect of which it was issued has commenced before that time. 1968-69, c. 2, s. 3.

Survey by  
provincial  
officer

**8.—**(1) A provincial officer may survey from time to time any source of air pollution and after completing such survey shall report thereon with his recommendations,

- (a) respecting the stationary source of air pollution and such method of operation and devices as may be necessary to prevent or lessen the emission of any air contaminant into the outdoor atmosphere;
- (b) respecting the source of air pollution where no equipment, apparatus, device, mechanism or structure is involved and such method of operation as may be necessary to prevent or lessen the emission of any air contaminant into the outdoor atmosphere; or
- (c) respecting the air pollution caused by the concentration of motor vehicles at passenger, repair or storage depots or other places where motor vehicles are marshalled, housed or parked and such methods of operation and devices as may be necessary to prevent or lessen the emission of air contaminants. 1967, c. 2, s. 8 (1); 1968, c. 3, s. 1.

Report to  
be sent to  
Department  
and  
operator

(2) The provincial officer shall file his report and recommendations with the Department and shall serve upon the operator or owner of the source of air pollution a copy thereof.

Review of  
report and  
recom-  
mendations  
by Board

(3) Upon receipt of a request in writing of the operator or owner filed with the secretary of the Board not later than fourteen days after the operator or owner received a copy of the report and



recommendations, the Board shall review the report and recommendations of the provincial officer and, before it reports thereon with its recommendations, the Board shall provide the Minister and the operator or owner with an opportunity of appearing before it at a hearing to be held not earlier than fourteen days after notice has been served on the Minister and the operator or owner stating the time and place of the hearing.

(4) Upon a hearing, the parties are entitled to be present and to be represented by counsel and make such representations as they desire. Counsel

(5) The Board shall send its report and recommendations to the Minister and shall forthwith serve a copy thereof upon the operator or owner. Report of Board 1967, c. 2, s. 8 (2-5).

**9.**—(1) Upon receipt of the report and recommendations of a provincial officer or, if such a report and recommendations are reviewed by the Board, upon receipt of the report and recommendations of the Board, the Minister may make such order as he considers necessary for prohibiting the operation of the source of air pollution or requiring changes respecting the source of air pollution or the method of operation or devices employed to prevent or lessen the emission of any air contaminant or to reduce or control air pollution. Order of Minister

(2) No order in respect of a source of air pollution shall be made under subsection 1 until fourteen days have elapsed after the report and recommendations of a provincial officer have been received by the operator or owner of the source of air pollution. No order until time for requesting review expires 1967, c. 2, s. 9.

**10.**—(1) Whenever the Minister, after investigation, is of the opinion that any person is emitting or causing to be emitted into the outdoor atmosphere any air contaminant that constitutes a serious danger to the health of any persons and that it would be prejudicial to the interests of such persons to delay action to complete a survey under section 8, he shall notify the person by a written order that he must immediately discontinue the emission of such contaminant into the outdoor atmosphere, including reasons therefor, whereupon such person shall immediately discontinue such emission. Where pollution creates serious danger to health

(2) The Minister shall, as soon as possible thereafter and in any event not later than seven days after giving such notice, provide the person with an opportunity to be heard and to present any evidence that such emission does not constitute a serious danger to the health of any persons. Hearing 1967, c. 2, s. 10.

Where air pollution causes damage to crops or live stock

**11.—(1)** Where a person complains that air pollution is causing or has caused injury or damage to live stock or to crops, trees or other vegetation that may result in economic loss to such person, he may, within fourteen days after the injury or damage becomes apparent, request the Minister to conduct an investigation.

Request for investigation

(2) Upon receipt of a request, the Minister may cause an investigation to be made and a report prepared of the findings of the investigation.

Report of investigation

(3) A copy of the report shall be given to the claimant and to the operator or owner of the source of air pollution alleged to be the cause of the injury or damage.

Right of owner to view damage, etc.

(4) The claimant shall permit the operator or owner of such source of air pollution or his agent to view the injury or damage and to remove samples and conduct tests and examinations as may be reasonably necessary to establish the cause of the injury or damage.

Board of negotiation

(5) A board of negotiation shall be established consisting of two or more members appointed by the Lieutenant Governor in Council, one of whom may be designated as chairman.

Quorum

(6) Any two members of the Board of negotiation constitute a quorum and are sufficient to perform all the functions of the board on behalf of the board.

Place of sitting

(7) The board of negotiation may sit at any place in Ontario.

Notice of amount of claim

(8) If a complainant who has requested an investigation under subsection 1 desires to have his claim for injury or damage negotiated by the board of negotiation, he shall notify the Minister and the operator or owner of the source of air pollution alleged to be the cause of the injury or damage of the amount of his claim within a reasonable time after the amount can be determined.

Notice of negotiation

(9) If the claimant and the operator or owner are not able to settle the claim within thirty days after notice of the claim is given to the Minister under subsection 8, the claimant or the operator or owner may serve notice of negotiation upon the other of them and upon the board of negotiation stating that he requires a settlement of the claim to be negotiated by the board of negotiation.

Negotiation proceedings

(10) Upon receipt of a notice of negotiation, the board of negotiation shall assess the injury or damage in respect of which the claim is made and, upon reasonable notice to the claimant and to the operator or owner, shall meet with them and, without prejudice to any subsequent proceedings, proceed in a summary and informal manner to negotiate a settlement of the claim. 1967, c. 2, s. 11 (1-10).

**12.—**(1) No person shall sell, offer or expose for sale a new motor vehicle or new motor vehicle engine of a class or type that is required by the regulations to have installed on or incorporated in it any system or device to prevent or lessen the emission into the outdoor atmosphere of any air contaminant or contaminants unless such motor vehicle complies with the regulations.

Sale of  
new motor  
vehicles  
and engines  
contrary to  
regulations

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. 1967, c. 2, s. 12.

Offence

**13.—**(1) No person shall operate a motor vehicle of a class or type that is required by the regulations to have installed on or incorporated in it any system or device to prevent or lessen the emission into the outdoor atmosphere of any air contaminant or contaminants unless such motor vehicle has installed on or incorporated in it such system or device and makes effective use of such system or device.

Operation  
of motor  
vehicles  
without  
effective  
system or  
device

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1967, c. 2, s. 13.

Offence

**14.—**(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) classifying sources of air pollution and exempting any class or classes from the provisions of this Act and the regulations;
- (b) classifying motor vehicles and motor vehicle engines for the purpose of any regulation and exempting any class or type of motor vehicle or motor vehicle engine from any regulation;
- (c) requiring motor vehicles or any class or type thereof and motor vehicle engines or any class or type thereof to have installed thereon or incorporated therein one or more systems or devices to prevent or lessen the emission into the outdoor atmosphere of any air contaminant or contaminants, prescribing the standards and specifications of any such system or device, prescribing the standards of emission into the outdoor atmosphere of any air contaminant or contaminants to which any such system or device shall comply and providing for the testing and inspection of any such system or device;
- (d) providing for the issuance by the Minister of certificates of approval of systems or devices proposed to be installed on or incorporated in motor vehicles to prevent or lessen emission into the outdoor atmosphere of air contaminant or contaminants;

- (e) defining and designating new motor vehicles and new motor vehicle engines for the purpose of any regulation;
- (f) prohibiting or regulating and controlling the emission of any air contaminant or contaminants into the outdoor atmosphere from any source of air pollution or any class thereof;
- (g) regulating the quality of fuels that may be used for heating, generating steam or electricity or for industrial processes;
- (h) designating the areas in Ontario to which this Act and the regulations are applicable and designating the date on which this Act and the regulations become effective in any area;
- (i) prescribing the composition, quorum and practice and procedure of the Board and the terms of office and remuneration of its members;
- (j) prescribing the amounts of grants payable to universities and municipalities, and the terms and conditions of such grants;
- (k) prescribing the ambient air quality criteria to be used in controlling, regulating or prohibiting the emission of any air contaminant or contaminants into the outdoor atmosphere and the standards thereof;
- (l) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1967, c. 2, s. 14 (1); 1968-69, c. 2, s. 4.

Scope of  
regulations

(2) Any regulation may be general or particular in its application and may be limited as to time or place or both. 1967, c. 2, s. 14 (2).

Application  
of Act and  
regulations

**15.** Notwithstanding any general or special Act, this Act and the regulations apply in such areas in Ontario as are designated by the regulations. 1967, c. 2, s. 15.

Offences

**16.—(1)** Every person who contravenes any provision of this Act, except section 12 or 13, or of the regulations or any order of the Minister made under this Act or the regulations, is guilty of an offence and on summary conviction is liable, if an individual, to a fine of not more than \$2,000 and, if a corporation, on first conviction to a fine of not more than \$5,000 and on each subsequent conviction to a fine of not more than \$10,000.

Idem

(2) Each day that a person contravenes a provision of this Act or the regulations or an order made by the Minister constitutes a separate offence. 1967, c. 2, s. 16.

**17.** Any report, order or notice served under this Act shall be deemed to be sufficiently served if it or a copy thereof is delivered to the operator of the source of air pollution in respect of which the report, order or notice is served, or is delivered,

Service of  
reports,  
orders, etc.

- (a) in the case of a municipality, including a metropolitan municipality, to the head or clerk of the municipality;
  - (b) in the case of any other corporation, to the president, vice-president, manager, treasurer, secretary, clerk or agent of the corporation or of any branch or agency thereof in Ontario;
  - (c) in the case of a firm or partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or, at the office or place of business of the firm or partnership, to a clerk employed therein; or
  - (d) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk employed therein. 1967, c. 2, s. 17.
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## CHAPTER 17

### The Airports Act

**1.** In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Transport;
- (b) "municipality" includes a metropolitan municipality. 1968, c. 4, s. 1.

**2.**—(1) The Crown in right of Ontario, represented by the Minister, may enter into agreements with the Government of Canada and any municipality, corporation or individual, or any one or more of them, with respect to any matter in relation to the establishment, extension, improvement or maintenance of airports to serve any one or more areas in Ontario.

Agreements  
authorized

(2) Any municipality may enter into agreements under subsection 1. 1968, c. 4, s. 2.

Municipalities  
authorized  
to enter into  
agreements

**3.** The Minister, with the approval of the Lieutenant Governor in Council, may provide funds to any municipality, corporation or individual for the purposes of acquiring by purchase, lease or otherwise any land or interest in land or any equipment, apparatus or thing that may be required for the establishment, extension, improvement or maintenance of any airport in respect of which an agreement has been entered into under section 2. 1968, c. 4, s. 3.

Funds for  
establishment,  
extension or maintenance of  
airport

**4.** The Minister may acquire, establish, operate and maintain airports and landing grounds to serve any one or more areas in Ontario. 1968, c. 4, s. 4.

Power of  
Minister  
to establish, etc.,  
airports

**5.** The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1968, c. 4, s. 5.

Moneys

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## CHAPTER 18

### The Alcoholism and Drug Addiction Research Foundation Act

**1.** In this Act,

Interpre-  
tation

- (a) “addict” means a person who is addicted to a substance other than alcohol;
- (b) “addiction” means addiction to a substance other than alcohol;
- (c) “alcoholic” means a person who suffers from alcoholism;
- (d) “alcoholism” means a diseased condition produced by the action of alcohol upon the human system;
- (e) “Board” means the professional advisory board of the Foundation;
- (f) “Foundation” means the Alcoholism and Drug Addiction Research Foundation;
- (g) “Minister” means the Minister of Health. 1965, c. 2, s. 1.

**2.—**(1) The corporation known as the Alcoholism and Drug Addiction Research Foundation is continued. Foundation continued

(2) The Foundation shall be composed of not fewer than seven and not more than twenty members appointed by the Lieutenant Governor in Council. 1965, c. 2, s. 2. Composition

**3.** The Lieutenant Governor in Council may designate one of the members to be chairman of the Foundation. 1965, c. 2, s. 3. Chairman

**4.** Five members of the Foundation constitute a quorum. 1965, c. 2, s. 4. Quorum

**5.** The Lieutenant Governor in Council may fill any vacancy among the members of the Foundation. 1965, c. 2, s. 5. Vacancies

**6.** The head office of the Foundation shall be at or near the City of Toronto. 1965, c. 2, s. 6. Head office

Objects and  
powers

**7.** The objects of the Foundation are and it has power,

- (a) to conduct and promote a program of research in alcoholism and addiction; and
- (b) to conduct, direct and promote programs for,
  - (i) the treatment of alcoholics and addicts,
  - (ii) the rehabilitation of alcoholics and addicts,
  - (iii) the experimentation in methods of treating and rehabilitating alcoholics and addicts, and
  - (iv) the dissemination of information respecting the recognition, prevention and treatment of alcoholism and addiction. 1965, c. 2, s. 7.

Further  
powers

**8.—(1)** For the furtherance of its objects, the Foundation may,

- (a) establish, conduct, manage and operate hospitals, clinics and centres for the observation and treatment of and for consultation with alcoholics and addicts; and
- (b) enter into agreements,
  - (i) with hospitals and other institutions for the accommodation, care and treatment of alcoholics and addicts, and
  - (ii) with universities, hospitals and other institutions for the experimentation in methods of treatment of alcoholics and addicts.

Grants

**(2)** The Foundation may make such grants as are considered by the Foundation necessary or desirable for the furtherance of its objects. 1965, c. 2, s. 8.

By-laws

**9.** The Foundation may make such by-laws as are considered expedient for its constitution and the administration of its affairs, and may do such other things as are considered necessary or advisable to carry out its objects. 1965, c. 2, s. 9.

Acquisition  
of land

**10.** The Foundation may acquire by purchase or lease any land and buildings, and may erect buildings, and may acquire such equipment, instruments, appliances, materials and other things as are considered necessary or advisable to carry out its objects. 1965, c. 2, s. 10.

Exemption  
from  
taxation

**11.** The real and personal property, business and income of the Foundation are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. 1965, c. 2, s. 11.

Board

**12.** There shall be a professional advisory board composed of such legally qualified medical practitioners, scientists and other



persons as the Foundation, with the approval of the Lieutenant Governor in Council, may appoint. 1965, c. 2, s. 12.

**13.**—(1) The Foundation may employ a director and such officers, clerks and servants as are considered expedient. Officers and staff

(2) The Foundation may engage the services of such experts and other persons as are considered expedient. 1965, c. 2, s. 13. Experts

**14.**—(1) Each member of the Foundation and the Board shall be paid his proper travelling and other expenses incurred in the work of the Foundation. Expenses

(2) Subject to the approval of the Lieutenant Governor in Council, the members of the Board shall be paid such remuneration as the Foundation determines from time to time. 1965, c. 2, s. 14. Remuneration of Board

**15.** The funds of the Foundation consist of moneys received by it from any source, including moneys appropriated for its use by the Legislature, and the Foundation may disburse, expend or otherwise deal with any of its funds in such manner as it considers proper. 1965, c. 2, s. 15. Funds

**16.** The accounts and financial transactions of the Foundation shall be audited annually by the Provincial Auditor, who shall make a report thereon to the Foundation and to the Minister, and the cost of the audit and report shall be paid out of the funds of the Foundation. 1965, c. 2, s. 16. Audit

**17.** The Foundation shall make a report annually to the Minister, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1965, c. 2, s. 17. Annual report

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## CHAPTER 19

**The Aliens' Real Property Act**

**1.** Every alien has the same capacity to take by gift, conveyance, descent, devise, or otherwise, and to hold, possess, enjoy, claim, recover, convey, devise, impart and transmit real estate in Ontario as a natural born or a naturalized subject of Her Majesty. R.S.O. 1960, c. 13, s. 1.

Aliens'  
powers as  
to real  
estate

**2.** The real estate in Ontario of an alien dying intestate descends and may be transmitted as if it had been the real estate of a natural born or a naturalized subject of Her Majesty. R.S.O. 1960, c. 13, s. 2.

Descent of  
real estate  
of aliens

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## CHAPTER 20

**The Ambulance Act****1. In this Act,**Interpre-  
tation

- (a) “ambulance” means a conveyance used or intended to be used in an ambulance service for the transportation of persons requiring medical attention or under medical care;
- (b) “ambulance service” means a service held out to the public as available for the conveyance of persons requiring medical attention or under medical care, and includes the service of dispatching ambulances;
- (c) “Commission” means the Ontario Hospital Services Commission;
- (d) “Director” means the Director of Emergency Health Services;
- (e) “Minister” means the Minister of Health;
- (f) “municipality” includes a metropolitan or regional municipality but does not include an area municipality thereof;
- (g) “operator” means a person or corporation that owns or provides an ambulance service and “operate” has a corresponding meaning;
- (h) “regulations” means the regulations made under this Act;
- (i) “resident” means a person who was actually residing and physically present in a municipality for a period of three months within the preceding six months. 1968-69, c. 3, s. 1.

**2. The Commission is responsible for the administration and enforcement of this Act. 1968-69, c. 3, s. 2.**Administra-  
tion of Act**3.—(1) Subject to section 6, the council of a municipality may pass by-laws for acquiring, maintaining and operating an ambulance service.**Municipal  
ambulance  
service

(2) The Commission and the council of a municipality or board of health of a health unit may enter into agreements in respect of the acquisition, maintenance and operation of an ambulance service. 1968-69, c. 3, s. 3.

Agreements



Functions  
of Com-  
mission

**4.—(1)** It is the function of the Commission and it has power,

- (a) to ensure the development throughout Ontario of a balanced and integrated system of ambulance services and of effectual ambulance communications facilities;
- (b) to require hospitals to establish, maintain and operate ambulance services and intercommunication respecting ambulance services;
- (c) to establish, maintain and operate, alone or in co-operation with others, ambulance services, inter-communication systems in connection with ambulance services and storage depots for the equipment and supply of ambulances;
- (d) to establish and operate, alone or in co-operation with one or more organizations, institutes and centres for the training of personnel for ambulance services;
- (e) to receive and disburse all moneys appropriated by the Legislature for the purposes of this Act and all moneys payable to the Commission under this Act;
- (f) to determine the amounts to be paid by the Commission and to pay operators for ambulance services provided and to make retroactive adjustments for underpayment and overpayment for such services according to the cost thereof;
- (g) to establish regions and districts for the purposes of ambulance services and the communications facilities therefor.

Applica-  
tion of  
R.S.O. 1970,  
c. 410

(2) *The Regulations Act* does not apply to anything done by the Commission under subsection 1. 1968-69, c. 3, s. 4.

Commission  
to approve  
applica-  
tions for  
incorpora-  
tion

**5.** No application to incorporate a corporation whose objects include the operation of an ambulance service shall be proceeded with until it has first received the approval of the Commission. 1968-69, c. 3, s. 5.

Operator's  
licence

**6.** No person shall operate an ambulance service except under the authority of a licence issued by the Director and the Director may issue a licence upon such terms and subject to such conditions as are specified in the licence or the regulations. 1968-69, c. 3, s. 6.

Temporary  
licence

**7.** The Director may issue a temporary licence in accordance with the regulations to operate a specified conveyance as an ambulance for a definite period of time stated in the licence. 1968-69, c. 3, s. 7.

**8.** The Director may refuse to issue a licence,

Grounds  
for refusal  
to issue

- (a) where the proposed operation would be in contravention of this Act or the regulations;
- (b) where there is no public need for the ambulance service in the area where the applicant proposes to operate;
- (c) where the applicant is not financially responsible; or
- (d) where the granting of the licence would be against the public interest. 1968-69, c. 3, s. 8.

**9.** The Director may revoke, suspend or refuse to renew a licence for any reason for which he may refuse to issue the licence if the licensee were an applicant or where the licensee has contravened this Act or the regulations or is in breach of a condition of his licence. 1968-69, c. 3, s. 9.

Grounds  
for revoca-  
tion, etc.

**10.—**(1) Where the Director refuses to issue or renew or proposes to revoke a licence, he shall give notice thereof to the applicant or licensee, together with written reasons for his refusal or proposed revocation and a notice stating the right to a hearing by the Commission, and the applicant or licensee may, by written notice given to the Director and the Commission within fifteen days after the receipt of the notice of refusal or proposed revocation, require a hearing by the Commission.

Notice of  
refusal to  
issue or re-  
vocation

(2) The Commission shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Hearing by  
Commission

(3) The notice of hearing shall contain,

Contents  
of notice

- (a) a statement of the time and place of the hearing which shall not be longer than thirty days after notice is given to the Commission under subsection 1;
- (b) a statement of the statutory power under which the hearing is being held;
- (c) a reference to the rules of procedure applicable to the hearing;
- (d) a concise statement of the issues; and
- (e) a statement that, if a party who has been duly notified does not attend at the hearing, the Commission may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 3, s. 10.

**11.—**(1) The Director, the applicant or licensee and any other person specified by the Commission are parties to the hearing.

Parties

(2) If a person who has been duly notified of a hearing does not attend, the Commission may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 3, s. 11.

Failure  
to attend

Adjourn-  
ment

**12.**—(1) A hearing may be adjourned from time to time by the Commission on reasonable grounds,

- (a) on its own motion; or
- (b) on the motion of any party to the hearing.

Subpoenas

(2) The Commission may command the attendance before it of any person as a witness.

Oaths

- (3) The Commission may require any person,
  - (a) to give evidence on oath or by affirmation at a hearing; and
  - (b) to produce such documents and things as the Commission requires.

Idem

(4) The Commission may admit evidence not given under oath.

Offences

- (5) Any person who, without lawful excuse,
  - (a) on being duly summoned as a witness before the Commission, makes default in attending; or
  - (b) being in attendance as a witness before the Commission, refuses to take an oath or affirmation legally required by the Commission to be taken, or to produce any document or thing in his power or control legally required by the Commission to be produced by him, or to answer any question to which the Commission may legally require an answer; or
  - (c) does any other thing that would, if the Commission had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence.

Enforce-  
ment

(6) The Commission may certify an offence under subsection 5 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1968-69, c. 3, s. 12.

Right of  
party to  
counsel

**13.**—(1) Any party may be represented before the Commission by counsel or agent.

Right of  
witness to  
counsel

(2) Any witness may be represented before the Commission by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.

(3) Any party who is present at a hearing before the Commission may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions. 1968-69, c. 3, s. 13. Rights of parties at hearing

**14.** Upon a review, the Commission shall hear such evidence as is submitted to it that in its opinion is relevant to the matter in dispute, and all oral evidence submitted shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by the Commission, forms the record. 1968-69, c. 3, s. 14. Evidence

**15.—**(1) The Commission may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act the Director is authorized to do under this Act and as the Commission considers proper, and for this purpose the Commission may substitute its opinion for that of the Director. Powers of Commission

(2) The decision of the Commission, including the reasons therefor, shall be in writing. Decision to be in writing

- (3) The reasons for the final decision shall contain, Contents of reasons for decision
- (a) the findings of fact on the evidence and any information or knowledge used in reaching the decision;
  - (b) any agreed findings of fact; and
  - (c) the conclusions of law based on the findings mentioned in clauses *a* and *b*.

(4) The Commission shall serve each party with a copy of its final decision, together with the reasons therefor and a notice stating the right to a review by the Minister under section 16. 1968-69, c. 3, s. 15. Notice of decision

**16.—**(1) Upon the request of any party to the hearing before the Commission, made within fifteen days after being served with a decision under subsection 4 of section 15, the Minister shall review the record and the decision of the Commission and the reasons therefor, and the Minister may confirm or alter the decision of the Director or direct the Director to do any act the Director is authorized to do under this Act and as the Minister considers proper, and the decision of the Minister is final on all matters except points of law. Review by Minister

(2) The Minister shall give the reasons for his decision under subsection 1 to each of the parties to the hearing before the Commission within thirty days after he receives the request for the review. Reasons



Appeal on  
point of law

(3) Any person requesting a review under subsection 1 may appeal the Minister's decision on any point of law to a judge of the Court of Appeal. 1968-69, c. 3, s. 16.

Service of  
notices

**17.** Except where otherwise provided, any notice required by this Act to be given shall be served personally or, where personal service cannot be effected, service is sufficient if sent by registered mail addressed to the person to whom notice is to be given at his last known address. 1968-69, c. 3, s. 17.

Appoint-  
ment of  
inspectors

**18.—**(1) The Commission may appoint inspectors for the purposes of this Act and the regulations and such appointments shall be in writing.

Powers of  
inspectors

(2) An inspector may enter the premises or conveyances of an operator at any time during daylight hours and may examine, extract information from and make copies of his books, accounts and records pertaining to the ambulance service and may inspect the conveyances, supplies and equipment for the purpose of determining their compliance with the regulations. 1968-69, c. 3, s. 18.

Notice of  
change in  
corporate  
manage-  
ment

**19.** Where a licensee is a corporation, the licensee shall notify the Director within fifteen days of any change in the officers or directors of the corporation. 1968-69, c. 3, s. 19.

Expiration  
of licences

**20.** Every licence, except a temporary licence, expires one year after it is issued. 1968-69, c. 3, s. 20.

Payment of  
ambulance  
services for  
indigents  
R.S.O. 1970,  
c. 378

**21.—**(1) Where a municipality is liable to a hospital for the payment of the charges for treatment of an indigent person or dependant of an indigent person under section 22 of *The Public Hospitals Act*, the municipality is also liable to the hospital for the indigent person's share of an ambulance service operator's fee, prescribed by the regulations, for transporting the indigent person or dependant to or from the hospital.

Idem

(2) Where a municipality is not liable to a hospital for the payment of the charges for treatment of an indigent person or a dependant of an indigent person under section 22 of *The Public Hospitals Act*, the Commission is responsible for the indigent person's share of an ambulance service operator's fee, prescribed by the regulations, for transporting the indigent person or dependant to or from the hospital. 1968-69, c. 3, s. 21.

Regulations

**22.—**(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations,

(a) prescribing the standards of conveyances and equip-



ment for ambulance services and of their maintenance and repair and requiring the approval of the Director for the acquisition of such conveyances and equipment as are specified in the regulations;

- (b) governing the management, operation and use of ambulance services, including insurance against liability in connection with their operation;
- (c) prescribing the records, books, audits and accounting system to be kept, made or followed by operators and the returns, reports and information to be submitted to the Director or the Commission;
- (d) prescribing the qualifications for persons employed in ambulance services including their testing and examination, physical or otherwise;
- (e) providing for the issuing of licences and prescribing terms and conditions of licences;
- (f) requiring the payment of fees in connection with licences and applications therefor and prescribing the amounts thereof;
- (g) prescribing the fees that may be charged by the operators of each class of ambulance service for each kind of service provided, the methods and times of payment of such fees to the operators and the proportion thereof that may be charged to the person transported in an ambulance.

(2) The regulations may provide that any provision is limited in its application to any specified class of ambulance service, person or thing. 1968-69, c. 3, s. 22. Limited application

**23.**—(1) Subject to subsection 2, any person who contravenes this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. Penalty

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$10,000 and not as provided therein. Corporations

(3) Any person who prevents or obstructs or attempts to prevent or obstruct an inspector from entering premises or making an inspection authorized by this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. Penalty

(4) No proceeding under this section shall be commenced more than one year after the time when the subject-matter of the proceeding arose. 1968-69, c. 3, s. 23. Limitation

Commission  
not vicar-  
iously liable

**24.** The Commission shall not be held to be vicariously liable for the acts or omissions of operators or their employees. 1968-69, c. 3, s. 24.

Limitation  
period

**25.** No action shall be brought against an operator or an employee of an operator for the recovery of damages occasioned by negligence in the provision of ambulance services after the expiration of one year from the time when the damages were sustained. 1968-69, c. 3, s. 25.

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## CHAPTER 21

## The Anatomy Act

## 1. In this Act,

Interpre-  
tation

- (a) "disposition" means any disposition that may be made of a body under *The Cemeteries Act*, and "dispose" has a corresponding meaning; R.S.O. 1970,  
c. 57
- (b) "general inspector" means the general inspector of anatomy;
- (c) "local inspector" means a local inspector of anatomy having jurisdiction, and includes the general inspector;
- (d) "private morgue" means a place where bodies are customarily retained before their disposition, other than a public morgue;
- (e) "public morgue" means a place under the control and management of a municipal corporation where bodies are retained before their disposition;
- (f) "regulations" means the regulations made under this Act;
- (g) "school" means an institution designated as a school by the regulations. 1967, c. 3, s. 1.

2.—(1) The Lieutenant Governor in Council may appoint a general inspector of anatomy who shall perform such duties as are assigned to him by this or any other Act, and may perform any of the duties of a local inspector anywhere in Ontario. General  
inspector

(2) The Lieutenant Governor in Council may appoint persons who are coroners as local inspectors of anatomy for such areas in Ontario as is considered advisable, and each local inspector shall perform such duties as are assigned to him under this or any other Act in the area in his jurisdiction, under the supervision and direction of the general inspector. 1967, c. 3, s. 2. Local  
inspectors

(3) When a local inspector ceases to be a coroner, his appointment as local inspector is terminated. Termination  
of office

(4) The general inspector and local inspectors are entitled to the fees required to be paid to them under this Act. 1967, c. 3, s. 2 (3, 4). Fees

Notice  
to local  
inspector,  
etc.

R.S.O. 1970,  
c. 87

**3.**—(1) Subject to *The Coroners Act*, the person having possession of the body of a deceased person that,

(a) is unclaimed by a relative or *bona fide* friend within twenty-four hours after the death; and

R.S.O. 1970,  
c. 214

(b) has not been or will not be used for a purpose authorized under *The Human Tissue Act*,

shall notify the local inspector and shall furnish the local inspector with such information respecting the deceased person as is within the knowledge of the notifier and as the local inspector may require.

Bodies under  
control of  
local  
inspector

(2) A body of which the local inspector is notified under subsection 1 shall be deemed to be under his control for the purposes of this Act.

Claiming  
bodies

(3) A body, while under the control of the local inspector, may be claimed by a relative for disposition or by any other person who gives a *bona fide* undertaking to dispose of the body. 1967, c. 3, s. 3.

Bodies for  
anatomical  
dissection

**4.**—(1) Subject to *The Coroners Act*, the local inspector may cause a body under his control to be delivered to a teacher of anatomy or surgery in a school, for the purpose of anatomical dissection.

Idem

(2) No body upon which a *post mortem* examination has been performed shall be delivered to a teacher of anatomy or surgery in a school unless the school is first informed of the *post mortem* examination and consents to accept the body. 1967, c. 3, s. 4.

Claiming  
of bodies  
after  
delivery  
to school

**5.**—(1) A school that receives a body under section 4 shall keep and preserve the body for not fewer than fourteen days, and, if the body is claimed within that time by a person entitled to claim the body under section 3, the school shall deliver the body to such person upon payment of the transportation costs actually incurred by the school, or such part of the costs as the school requires, and shall notify the general inspector of the fact.

Donated  
bodies

(2) A school that receives a body for the purpose of anatomical dissection, other than under section 4, shall immediately notify the local inspector and shall not begin a dissection of the body until the local inspector has certified in writing that he has obtained such particulars of the body as he may require. 1967, c. 3, s. 5.

Order of  
provincial  
judge

**6.** Where doubt exists as to whether a person is entitled to claim a body under section 3 or 5, the person claiming the body may apply to a provincial judge or, where no provincial judge is

available, to a justice of the peace having jurisdiction in the locality where the body is found for an order (Form 1), and the provincial judge or justice of the peace may make the order. 1967, c. 3, s. 6, *amended*.

**7.** A school receiving a body shall dispose of the body at the expense of the school after it has served the purpose for which it was received, but, before disposing of the body, the school shall give notice of the disposition to the general inspector. 1967, c. 3, s. 7. Disposition of bodies by school

**8.** Every school shall keep such records as are prescribed by the regulations, and the records shall be open at all times to inspection by the general inspector or a local inspector. 1967, c. 3, s. 8. Records by school

**9.—(1)** The general inspector may inspect the methods and facilities of a school for handling, preserving, storing, dissecting, and disposing of bodies and the parts thereof. Inspection

**(2)** The general inspector may make such orders in writing as he considers necessary requiring a school to provide and maintain any of the methods and facilities referred to in subsection 1 in accordance with good anatomical practices, and, where an order is not complied with, the general inspector may, in his discretion, suspend delivery of bodies to the school for such periods as he may determine. 1967, c. 3, s. 9. Orders of general inspector

**10.** Every local inspector shall,

**(a)** keep a register showing,

**(i)** the name, sex, age, birthplace and last place of residence of every person whose body is under his control or of whose body he has been notified under subsection 2 of section 5, and

**(ii)** the name of the school to which the body was delivered and the date of the delivery; and

**(b)** furnish the general inspector with such information as he requires. 1967, c. 3, s. 10. Duties of local inspector

**11.** Subject to this Act, any unclaimed body found within the limits of a city, town, village or township shall, at the request of the local inspector or, where there is no local inspector appointed under subsection 2 of section 2, of a coroner, be disposed of at the expense of the corporation, but the corporation may recover the expense thereof from the estate of the deceased or from any person whose duty it was to dispose of the body. 1967, c. 3, s. 11. Duty of municipality to bury



Storage in  
morgues

**12.**—(1) A local inspector or, where there is no local inspector, a coroner may order a body to be stored in a public morgue or retained in a private morgue until other arrangements are made.

Security in  
morgues

(2) Every person in charge of a public or private morgue shall ensure that bodies in the morgue are secure against unlawful interference. 1967, c. 3, s. 12.

Offence

**13.**—(1) Every person who contravenes this Act is guilty of an offence and on summary conviction is liable, if a corporation, to a fine of not more than \$2,000 or, if not a corporation, to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both.

Liability  
of cor-  
poration of  
which school  
a part

(2) For the purposes of subsection 1, where an institution that is designated as a school for the purposes of this Act is part of a college or university that is a corporation, a duty imposed by this Act on the school shall be deemed to be imposed on the corporation. 1967, c. 3, s. 13.

Regulations

**14.** The Lieutenant Governor in Council may make regulations,

- (a) designating schools for the purposes of this Act;
- (b) prescribing the records that shall be kept by schools;
- (c) prescribing the duties of the general inspector and the local inspectors in addition to the duties imposed by this Act;
- (d) requiring the payment of fees to the general inspector and local inspectors for services performed under this Act and the regulations, and prescribing the amounts thereof;
- (e) prescribing forms for the purposes of this Act and providing for their use. 1967, c. 3, s. 14.

FORM 1

(Section 6)

*The Anatomy Act*

To whom it may concern:

Whereas *A. B.* of (*here state the residence and occupation of the person by whom or on whose behalf the order is applied for*) has satisfied me that he is a relative (*or is a bona fide friend, or has given a bona fide undertaking to dispose of the body*) of *C. D.*, deceased, and is entitled to have the body delivered to him for the purpose of disposition.

I hereby authorize and order every person and authority having the present custody or control of the body forthwith upon presentation of this order to deliver it to the said *A. B.* for disposition.

Witness my hand as provincial judge (*or Justice of the Peace*) of and for the  
.....of.....  
(*as the case may be*), this.....day of....., 19.....  
.....

1967, c. 3, Form 1, *amended*.

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## CHAPTER 22

**The Animals for Research Act****1. In this Act,**Interpre-  
tation

- (a) “animal” means a live, non-human vertebrate;
- (b) “Director” means the Director of the Veterinary Services Branch of the Department of Agriculture and Food;
- (c) “inspector” means an inspector appointed under this Act;
- (d) “Minister” means the Minister of Agriculture and Food;
- (e) “pound” means premises that are used for the detention, maintenance or disposal of dogs or cats that have been impounded pursuant to a by-law of a municipality, but does not include any premises, or part thereof, that are not used by any person or body of persons, including the Ontario Society for the Prevention of Cruelty to Animals or any society affiliated therewith, for the detention, maintenance or disposal of dogs or cats so impounded;
- (f) “redemption period” means that period of time within which the owner of a dog or cat that has been impounded in a pound has the right to redeem it;
- (g) “regulations” means the regulations made under this Act;
- (h) “research” means the use of animals in connection with studies, investigation and teaching in any field of knowledge, and, without limiting the generality of the foregoing, includes the use of animals for the performance of tests, and diagnosis of disease and the production and testing of preparations intended for use in the diagnosis, prevention and treatment of any disease or condition;
- (i) “research facility” means premises on which animals are used in research and includes premises used for the collecting, assembling or maintaining of animals in connection with a research facility, but does not include a farm on which pregnant mares are kept for the collection of urine;

(j) “Review Board” means the Licensing and Registration Review Board;

(k) “supply facility” means premises, other than a research facility, that are used for the breeding and rearing of animals pursuant to a contract between the operator thereof and the operator of a research facility;

R.S.O. 1970,  
c. 480

(l) “veterinarian” means a person registered under *The Veterinarians Act*. 1968-69, c. 4, s. 1.

Review  
Board  
established

**2.**—(1) A board to be known as the “Licensing and Registration Review Board” is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council, none of whom shall be members of the public service in the employ of the Department of Agriculture and Food, and who shall, subject to subsection 3, hold office during pleasure.

Appointment  
to Board

(2) The Lieutenant Governor in Council shall offer an appointment to the Review Board to a person who is a member in good standing of the Ontario Society for the Prevention of Cruelty to Animals or of an incorporated society affiliated therewith.

Term of  
office

(3) No member of the Review Board shall hold office for more than five consecutive years.

Chairman  
and vice-  
chairman

(4) The Lieutenant Governor in Council may appoint one of the members of the Review Board as chairman and another of the members as vice-chairman.

Quorum

(5) A majority of the members of the Review Board constitutes a quorum.

Remunera-  
tion

(6) The members of the Review Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. 1968-69, c. 4, s. 2.

Operator  
required  
to be  
licensed

**3.**—(1) No person shall commence or continue to be an operator of a supply facility without a licence as an operator of a supply facility from the Director unless he is exempt under this Act or the regulations.

Exception  
as to  
certain sales

R.S.O. 1970,  
c. 186

(2) An operator of a supply facility is exempt from subsection 1 respecting cattle, fish, goats, horses, poultry, reptiles, sheep, swine or game animals or fur-bearing animals as defined in *The Game and Fish Act*, but in all other respects he is subject to the provisions of this Act and the regulations.

Require-  
ments for  
licensing

(3) No person shall be granted a licence as an operator of a supply facility unless he,

(a) is experienced in the proper care and handling of animals; and



- (b) possesses all pens, cages, compounds, vehicles, tools, implements, buildings and dietary materials necessary to properly care for and handle animals on his premises.

(4) A licence as an operator of a supply facility may be suspended or revoked where,

Suspension  
or revoca-  
tion of  
licence

- (a) the operator has not properly maintained any of the facilities, equipment or materials referred to in clause *b* of subsection 3; or
- (b) the operator or any person employed by him or associated with him in connection with his operation as an operator has failed to observe or carry out the provisions of,
  - (i) this Act or the regulations, or
  - (ii) any other Act relating to cruelty, maltreatment or neglect of animals. 1968-69, c. 4, s. 3.

4.—(1) Subject to subsection 1 of section 15, the Director shall issue a licence as an operator of a supply facility to an applicant therefor unless, in his opinion, the applicant does not comply with clauses *a* and *b* of subsection 3 of section 3.

Issue of  
licence

(2) Where the Director is of the opinion that an applicant does not comply with clauses *a* and *b* of subsection 3 of section 3, he may refuse to issue the licence.

Refusal  
of licence

(3) Where the Director is of the opinion, in the case of a licensee, that clause *a* or *b* of subsection 4 of section 3 applies, he may suspend or revoke the licence.

Suspension  
or revoca-  
tion of  
licence

(4) Where the Director refuses to issue or proposes to suspend or revoke a licence, he shall give notice thereof to the applicant or licensee, together with written reasons for his refusal or proposed suspension or revocation and a notice stating the right to a hearing by the Review Board, and the applicant or licensee may, by written notice given to the Director and the Review Board within fifteen days after receipt of the notice of refusal or proposed suspension or revocation, require a hearing by the Review Board. 1968-69, c. 4, s. 4.

Where  
Director  
refuses to  
issue or  
proposes to  
suspend or  
revoke a  
licence

5.—(1) No person shall commence or continue to operate a research facility unless the research facility is registered under this Act.

Research  
facility  
required  
to be  
registered

(2) No research facility shall be registered unless there are therein or adjacent thereto and in connection therewith all pens, cages, compounds, tools, implements, buildings and dietary materials necessary to properly care for and handle animals that are in the research facility.

Require-  
ments for  
registration

Suspension  
or revoca-  
tion of  
registration

(3) The registration of a research facility may be suspended or revoked where,

- (a) any of the facilities, equipment or materials referred to in subsection 2 have not been properly maintained therein; or
- (b) the operator or any person employed by him or associated with him in the operation of the research facility has failed to observe or carry out the provisions of,
  - (i) this Act or the regulations, or
  - (ii) any Act relating to cruelty, maltreatment or neglect of animals. 1968-69, c. 4, s. 5.

Registration

**6.**—(1) Subject to subsection 2 of section 15, the Director shall register a research facility in Ontario unless, in his opinion, it does not contain the facilities, equipment or materials referred to in subsection 2 of section 5.

Refusal of  
registration

(2) Where the Director is of the opinion that a research facility in respect of which an application for registration is made does not contain the facilities, equipment or materials referred to in subsection 2 of section 5, he may refuse to register the research facility.

Director  
may  
suspend  
or revoke  
registration

(3) Where the Director is of the opinion that clause *a* or *b* of subsection 3 of section 5 applies, he may suspend or revoke the registration of the research facility.

Where  
Director  
refuses to  
register or  
proposes to  
suspend or  
revoke  
registration

(4) Where the Director refuses to register or proposes to suspend or revoke the registration of a research facility he shall give notice thereof to the operator of the research facility, together with written reasons for his refusal or proposed suspension or revocation and a notice stating the right to a hearing by the Review Board and the operator may, by written notice given to the Director and the Review Board within fifteen days after receipt of the notice of refusal or proposed suspension or revocation, require a hearing by the Review Board. 1968-69, c. 4, s. 6.

Hearing  
by Review  
Board

**7.**—(1) The chairman of the Review Board shall fix a time, date and place at which the Review Board will hear the matter and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Contents  
of notice

(2) The notice of hearing shall contain,

- (a) a statement of the time and place of the hearing;
- (b) a reference to the rules of procedure applicable to the hearing; and

- (c) a statement that, if a party who has been duly notified does not attend at the hearing, the Review Board may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 4, s. 7.

**8.**—(1) The Director, the applicant or licensee and the operator of the research facility, as the case may be, and any other person specified by the Review Board are parties to the hearing. Parties

(2) If a person who has been duly notified of a hearing does not attend, the Review Board may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 4, s. 8. Failure to attend

**9.**—(1) A hearing may be adjourned from time to time by the Review Board on reasonable grounds, Adjournment

(a) on its own motion; or

(b) on the motion of any party to the hearing.

(2) The Review Board may command the attendance before it of any person as a witness. Subpoena

(3) The Review Board may require any person, Oaths

(a) to give evidence on oath or affirmation at a hearing; and

(b) to produce such documents and things as the Review Board requires.

(4) The Review Board may admit evidence not given under oath. Idem

(5) Any person who, without lawful excuse, Offences

(a) on being duly summoned as a witness before the Review Board, makes default in attending; or

(b) being in attendance as a witness before the Review Board, refuses to take an oath or make an affirmation legally required by the Review Board to be taken or made, or to produce any document or thing in his power or control legally required by the Review Board to be produced by him, or to answer any question to which the Review Board may legally require an answer; or

(c) does any other thing that would, if the Review Board had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence.

(6) The Review Board may certify an offence under subsection 5 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced Enforcement

against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1968-69, c. 4, s. 9.

Right of  
party to  
counsel

**10.**—(1) Any party may be represented before the Review Board by counsel or agent.

Right of  
witness to  
counsel

(2) Any witness may be represented before the Review Board by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.

Exclusion  
of counsel

(3) Where a hearing is *in camera*, a counsel or agent for a witness shall be excluded except when that witness is giving evidence. 1968-69, c. 4, s. 10.

Rights of  
parties at  
hearing

**11.** At a hearing before the Review Board, any party may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions. 1968-69, c. 4, s. 11.

Hearings  
to be open  
to public;  
exceptions

**12.**—(1) All hearings shall be open to the public except where the Review Board finds that,

- (a) public security may be involved; or
- (b) intimate financial or personal circumstances of any person may be disclosed,

in which case the Review Board shall hold the hearing as to any such matters *in camera*.

Idem

(2) Notwithstanding the exceptions mentioned in clauses *a* and *b* of subsection 1, the Review Board may, if in its opinion the public interest so requires, proceed without regard to such exceptions. 1968-69, c. 4, s. 12.

Evidence

**13.**—(1) At a hearing before the Review Board,

- (a) except where otherwise provided in this section, the common law and statutory rules of evidence apply;
- (b) evidence not admissible under clause *a* may be admitted by the Review Board in its discretion if to do so may expedite the hearing and will not prejudice any party; and
- (c) the Review Board may admit evidence in the form of a copy or an excerpt of a document if the document itself is not readily available.

Release of  
exhibits

(2) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to



him by the Review Board within a reasonable time after the matter in issue has been finally determined. 1968-69, c. 4, s. 13.

**14.**—(1) The Review Board may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act the Director is authorized to do under this Act and as the Review Board considers proper, and for this purpose the Review Board may substitute its opinion for that of the Director.

Powers of  
Review  
Board

(2) A licence or registration that is suspended or revoked pursuant to a decision of the Review Board under subsection 1 shall, where an appeal is instituted under section 16, remain suspended or revoked until the appeal is determined.

Licence or  
registration  
to remain  
suspended  
or revoked

(3) The Review Board shall serve each party with a notice of its decision, together with the reasons therefor in writing and a notice stating the right to an appeal under section 16, either personally or by registered mail addressed to the party at his last known address.

Notice of  
decision  
and right  
to appeal

(4) The reasons for the decision shall contain,

Contents  
of reasons  
for decision

(a) the findings of fact on the evidence and any information or knowledge used in reaching the decision;

(b) any agreed findings of fact; and

(c) the conclusions of law based on the findings mentioned in clauses *a* and *b*. 1968-69, c. 4, s. 14.

**15.**—(1) The Director shall not issue a licence to any person who formerly held a licence as an operator of a supply facility and whose licence was revoked less than one year before the date of the application.

When  
licence  
not to  
issue

(2) The Director shall not register a research facility that was formerly registered and the registration of which was revoked less than one year before the date of the application. 1968-69, c. 4, s. 15.

When  
research  
facility  
not to be  
registered

**16.**—(1) Any party to the hearing before the Review Board may appeal from the decision of the Review Board to the Court of Appeal and the practice and procedure as to appeal proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court.

Appeal to  
Court of  
Appeal

(2) The Minister may designate counsel to assist the court upon the hearing of an appeal under this section.

Counsel

(3) The chairman of the Review Board shall certify to the Registrar of the Supreme Court,

Material  
on appeal

(a) the notices referred to in subsection 4 of section 4 or subsection 4 of section 6, as the case may be, and in subsection 1 of section 7 and subsection 3 of section 14;



- (b) the written reasons for the decision of the Review Board; and
- (c) all written submissions to the Review Board and other material, including documentary evidence received by it in connection with the hearing.

Decision of  
court

(4) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Review Board or direct the Director to do any such act as the Director is authorized to do under this Act and as the court considers proper and the court may substitute its opinion for that of the Review Board and may exercise the same powers as it exercises on an appeal from a judge of the High Court sitting without a jury. 1968-69, c. 4, s. 16 (1-4).

Animals to  
be kept  
separate

**17.** Animals that are bred and reared in a supply facility shall, at all times, be maintained by the operator thereof in such manner that they are separate from any other animals owned by him. 1968-69, c. 4, s. 17.

Purchase  
or other  
acquisition  
of animals

**18.—(1)** No person shall purchase or otherwise acquire an animal from any person in Ontario for use in a research facility except from,

- (a) the operator of a registered research facility;
- (b) the operator of a pound, under section 24;
- (c) the operator of a supply facility who is,
  - (i) the holder of a licence as an operator of a supply facility, or
  - (ii) exempt under this Act or the regulations from the provisions of subsection 1 of section 3 in respect of the animal.

Sale or  
other  
disposition  
of dog  
or cat

(2) No operator of a research facility shall sell or otherwise dispose of any dog or cat purchased or otherwise acquired under section 24 to any person other than the operator of a registered research facility in Ontario.

Exceptions

- (3) Nothing in this section prevents,
- (a) the acquisition by a research facility of a dog or cat that has been donated to the research facility by the owner thereof;
  - (b) the return by the research facility of a dog or cat acquired under clause *c* of subsection 6 of section 24 to the person who was the owner thereof before it came into possession of the operator of the pound; or
  - (c) the acquisition by the operator of a supply facility of breeding stock from any person not referred to in subsection 1. 1968-69, c. 4, s. 18.

**19.** The operator of a registered research facility shall submit to the Director such reports respecting animals used in the research facility for research as may be prescribed in the regulations. 1968-69, c. 4, s. 19.

Reports

**20.**—(1) Every animal used in a registered research facility in any experiment that is likely to result in pain to the animal shall be anaesthetized so as to prevent the animal from suffering unnecessary pain.

Animals to be anaesthetized

(2) The operator of a research facility shall provide analgesics adequate to prevent an animal from suffering unnecessary pain during the period of its recovery from any procedure used in an experiment. 1968-69, c. 4, s. 20.

Analgesics to be provided

**21.**—(1) Every person or body of persons having control of a registered research facility or facilities shall establish in connection therewith an animal care committee, one of the members of which shall be a veterinarian.

Animal care committee

(2) Every animal care committee established under subsection 1 shall be responsible for co-ordinating and reviewing,

Responsibility of committee

- (a) the activities and procedures relating to the care of animals;
- (b) the standards of care and facilities for animals;
- (c) the training and qualifications of personnel that are engaged in the care of animals; and
- (d) procedures for the prevention of unnecessary pain including the use of anaesthetics and analgesics,

in every research facility in connection with which the animal care committee is established, having regard to the requirements of this Act and the regulations.

(3) The operator of a research facility shall, prior to conducting any research project in which animals are to be used, file, or cause to be filed, with the animal care committee a research project proposal setting forth the nature of all procedures to be used in connection with such animals, the number and type of animals to be used and the anticipated pain level that any such animal is likely to experience.

Filing of research project proposal with animal care committee

(4) Where an animal care committee has reason to believe that there is, will be or has been an offence committed against section 20 in any research facility in connection with which it is established, the animal care committee shall order,

Committee to make orders

- (a) that any research in connection with such offence be stopped or not proceeded with; and

- (b) that where such research has caused, in any animal, severe pain or illness that cannot be alleviated, such animal be forthwith humanely destroyed. 1968-69, c. 4, s. 21.

Appoint-  
ment of  
chief  
inspector  
and  
inspectors

**22.—**(1) The Minister shall appoint a chief inspector who is a veterinarian and such other inspectors as he considers necessary, and, notwithstanding any other Act, such inspectors have exclusive authority to initiate proceedings to enforce the provisions of this Act and the regulations.

Certificate  
of  
appoint-  
ment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister.

Powers of  
inspectors

(3) Subject to subsections 4, 5, 6, 7 and 8, an inspector, for the purpose of carrying out his duties under this Act, may, upon production of a certificate of his appointment,

- (a) enter any premises, car, truck or other conveyance in which he believes on reasonable and probable grounds there are animals that are used, or that are intended to be used, in research and inspect the premises, car, truck or other conveyance, any facilities or equipment therein and any animal therein;
- (b) enter any pound and inspect the pound, any facilities or equipment therein and any animals therein; and
- (c) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or of extracts therefrom relating to animals that,
  - (i) are in a pound, or
  - (ii) he believes on reasonable and probable grounds are used or intended to be used in research.

Entry of  
dwellings  
R.S.O. 1970,  
c. 450

(4) Except under the authority of a warrant under section 14 of *The Summary Convictions Act*, an inspector shall not enter any part of a dwelling without the consent of the owner or tenant unless,

- (a) the occupant is a licensed operator of a supply facility; and
- (b) he has reasonable grounds for believing that the occupant is maintaining in such part animals that are used or intended to be used in research.

When  
powers  
to be  
exercised

(5) An inspector shall exercise his powers under subsection 3 only between sunrise and sunset, but nothing in this section affects the issuance and execution of a warrant under section 14 of *The Summary Convictions Act*.

(6) Where an inspector demands the production or furnishing of books, records, documents or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector and the inspector may detain them for the purpose of photocopying them, if such photocopying is carried out with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Production and photocopying of records, etc.

(7) Where a book, record, document or extract has been photocopied under subsection 6, a photocopy purporting to be certified by the Minister, or a person thereunto authorized by the Minister, to be a copy made pursuant to subsection 6 is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

Certification of photocopy

(8) Where an inspector makes a demand under clause c of subsection 3, the demand shall be in writing and shall include a statement of the nature of the investigation and the general nature of the books, records, documents or extracts required.

Demand to be in writing

(9) *The Ontario Society for the Prevention of Cruelty to Animals Act, 1955* does not apply in respect of animals in the possession of the operator of a registered research facility or of a licensed operator of a supply facility. 1968-69, c. 4, s. 22.

1955, c. 58, not to apply

**23.** No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information. 1968-69, c. 4, s. 23.

Obstruction of inspector

**24.**—(1) The minimum redemption period shall be three days, excluding the day on which the dog or cat was impounded, or such longer period as the regulations prescribe and holidays shall not be included in calculating any redemption period.

Redemption period

(2) The council of a local municipality may, by by-law, fix a redemption period that is longer than the minimum redemption period prescribed by or under this Act and shall file a copy of any such by-law with the Director.

Idem

(3) Except with the approval in writing of the Director, no by-law referred to in subsection 2 shall be repealed or amended.

Repeal or amendment of by-law

(4) Where the operator of a pound has impounded a dog or cat that has a tag, name plate or other means of identification, he shall,

Notification by operator

(a) notify the nearest office of the Ontario Society for the Prevention of Cruelty to Animals or any society affiliated therewith, except where the pound is operated by such society or affiliated society; and



- (b) take all reasonable steps to find the owner of the dog or cat and shall forthwith notify the owner, if found, that the dog or cat has been impounded.

Dog or cat  
not to be  
destroyed

(5) During the redemption period and subject to subsection 7, the operator of a pound shall not destroy or cause or permit to be destroyed any dog or cat that is in the pound but he may return the dog or cat to the person who owned it before it came into his possession, subject to the payment of such damages, fines and expenses as are required by law.

Idem

(6) After the redemption period has expired and subject to subsection 7, the operator of a pound shall not destroy or cause or permit to be destroyed any dog or cat that is in the pound but he may,

- (a) return the dog or cat to the person who owned it before it came into the possession of the operator of the pound, subject to the payment of such damages, fines and expenses as are required by law;
- (b) sell the dog or cat, dispose of it by gift or hold it in possession for sale or disposal by gift to a *bona fide* purchaser or donee,
  - (i) as a pet,
  - (ii) for use in hunting, or
  - (iii) for working purposes; or
- (c) sell the dog or cat to the operator of a registered research facility in Ontario who has requested the operator of the pound to sell him a dog or cat, as the case may be.

Where  
dog or cat  
may be  
destroyed

(7) Notwithstanding subsection 5 or 6, the operator of a pound may destroy or cause or permit to be destroyed any dog or cat that has been impounded in the pound where,

- (a) the person who owned the dog or cat before it came into the possession of the operator of the pound has requested in writing that the dog or cat be destroyed;
- (b) an inspector or veterinarian has ordered that the dog or cat be destroyed pursuant to subsection 11;
- (c) the dog or cat has been impounded in the pound for the redemption period and the operator of the pound has satisfied all requests referred to in clause c of subsection 6 from operators of research facilities; or
- (d) during the redemption period, the dog or cat is in a pound and,
  - (i) is ill or injured and in his opinion is incapable of being so cured or healed as to live thereafter without suffering, and



(ii) he has satisfied all requests referred to in clause *c* of subsection 6 from operators of research facilities.

(8) Where the operator of a pound sells a dog or cat to the operator of a research facility under subsection 6, the price of the dog or cat,

Sale price of dog or cat

- (a) where no maximum price has been prescribed in the regulations in respect of the dog or cat, shall not exceed a price that is reasonable having regard to all the circumstances; or
- (b) shall not exceed the maximum price prescribed in the regulations in respect of the dog or cat.

(9) In addition to the price paid for a dog or cat under clause *b* of subsection 8, the operator of a pound may require the operator of a research facility to pay such amount as is prescribed in the regulations in respect of the care, treatment, food and accommodation of a dog or cat.

Additional amount payable

(10) Where a dog or cat is sold or otherwise disposed of in a manner referred to in subsection 6, no person shall make any payment in respect of the dog or cat to the operator of the pound or any person employed therein but shall make such payment in the manner and to such other person as is prescribed in the regulations.

No payment to be made to operator of pound

(11) An inspector or veterinarian may order a dog or cat to be destroyed,

Order for destruction of dog or cat

- (a) where, during the redemption period, the dog or cat is in a pound and is ill or injured and, in the opinion of the inspector or veterinarian, is incapable of being so cured or healed as to live thereafter without suffering; or
- (b) where the dog or cat,

(i) is in a pound, supply facility or research facility,

(ii) has not, where it is in a pound, been redeemed by its owner within the redemption period, and

(iii) is, in the opinion of the inspector or veterinarian, not suitable for use in research by reason of ill health, injury, malnutrition, excessive age or other infirmity.

(12) Where the operator of a pound has in his possession a dog or cat that is impounded pursuant to a by-law of a local municipality, he shall at all times identify the dog or cat in such manner as is prescribed in the regulations.

Identification of dog or cat

(13) This section does not apply to an animal that by reason of being suspected of being infected with any communicable disease is confined in a pound pursuant to *The Public Health Act* or the *Animal Contagious Diseases Act* (Canada). 1968-69, c. 4, s. 24.

Exception as to certain animals  
R.S.O. 1970, c. 377  
R.S.C. 1952, c. 9

Offence

**25.**—(1) Every person who contravenes any of the provisions of this Act, other than section 19, or the regulations, other than a regulation made under clause *h, j* or *l* of section 27, or of an order made under subsection 3 of section 21, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$500 or to imprisonment for a term of not more than three months, or to both, and for a subsequent offence to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

Idem

(2) Every person who contravenes the provisions of section 19 or of a regulation made under clause *h, j* or *l* of section 27, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$25 and for a subsequent offence to a fine of not more than \$100. 1968-69, c. 4, s. 25.

Injunction  
proceedings

**26.** Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations or against any Act relating to cruelty, maltreatment or neglect of animals has been or is being committed by any person who is the operator of a pound, research facility or supply facility or who is employed by or associated with any such person, the Supreme Court or a judge thereof may, upon the application of the Director, enjoin any such person from being engaged in any way in the operation of such pound, research facility or supply facility absolutely or for such period as seems just. 1968-69, c. 4, s. 26.

Regulations

**27.** The Lieutenant Governor in Council may make regulations,

- (a) providing for the manner of issuing licences, prescribing their duration and the fees payable therefor;
- (b) providing for the manner of registering research facilities in Ontario, prescribing the fees payable therefor, and prescribing terms and conditions for such registration;
- (c) prescribing further procedures for hearings before the Review Board;
- (d) prescribing the buildings, facilities and equipment to be provided by the operator of a research facility, supply facility or pound or any class thereof;
- (e) prescribing standards for the health, welfare and care of animals, or any class thereof, in a research facility, supply facility or pound;
- (f) prescribing facilities and equipment for the transportation of animals that are used or are intended to be used by a research facility;

- (g) classifying research facilities, requiring the operators of any class of research facility to provide for the services of a veterinarian in connection with the care of animals in the research facility and prescribing the terms and conditions on which such services shall be provided in respect of any such class;
  - (h) prescribing the records to be made and kept by the operator of a research facility, supply facility or pound, or any class thereof, and prescribing the places at which such records shall be kept;
  - (i) prescribing reports to be submitted to the Director by the operator of a research facility;
  - (j) prescribing methods for the identification of animals;
  - (k) subject to subsection 1 of section 24, prescribing the redemption period in respect of dogs or cats or any class thereof;
  - (l) determining from time to time the maximum prices that shall be paid for dogs or cats or any class thereof by the operators of research facilities, to the operators of pounds, determining different prices for different parts of Ontario and prescribing the manner in which and the person to whom such prices shall be paid;
  - (m) prescribing for the purposes of subsection 9 of section 24, an amount or amounts that the operator of a pound may require the operator of a research facility to pay respecting the care, treatment, food and accommodation of a dog or cat;
  - (n) providing for the exemption from this Act or the regulations, or any provision thereof, of any person or class of persons, or any animal or class of animals and prescribing the terms and conditions therefor;
  - (o) prescribing forms and providing for their use;
  - (p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1968-69, c. 4, s. 27.
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## CHAPTER 23

### The Apportionment Act

**1.** In this Act,

Interpre-  
tation

- (a) “annuities” includes salaries and pensions;
- (b) “dividends” includes all payments made by the name of dividend, bonus or otherwise out of revenues of trading or other public companies divisible between all or any of the members, whether such payments are usually made or declared at any fixed times or otherwise, but does not include payments in the nature of a return or reimbursement of capital;
- (c) “rent” includes rent-service, rent-charge and rent-seek and all periodical payments or renderings in lieu or in the nature of rent. R.S.O. 1960, c. 16, s. 1.

**2.** Dividends shall, for the purposes of this Act, be deemed to have accrued by equal daily increment during and within the period for or in respect of which the payment of the dividends is declared or expressed to be made. R.S.O. 1960, c. 16, s. 2.

Dividends,  
how deemed  
to accrue

**3.** All rents, annuities, dividends, and other periodical payments in the nature of income, whether reserved or made payable under an instrument in writing or otherwise, shall, like interest on money lent, be considered as accruing from day to day, and are apportionable in respect of time accordingly. R.S.O. 1960, c. 16, s. 3.

Rents, etc.,  
how to  
accrue and  
be appor-  
tionable

**4.** The apportioned part of any such rent, annuity, dividend or other periodical payment is payable or recoverable, in the case of a continuing rent, annuity, dividend or other such payment, when the entire portion, of which such apportioned part forms part, becomes due and payable, and not before, and in the case of a rent, annuity or other such payment determined by re-entry, death or otherwise, when the next entire portion of the same would have been payable if it had not so determined, and not before. R.S.O. 1960, c. 16, s. 4.

When ap-  
portioned,  
part of rent,  
etc., to be  
payable

**5.—(1)** All persons and their respective heirs, executors, administrators and assigns, and also the executors, administrators and assigns, respectively, of persons whose interests determine with their own deaths, have such or the same remedies for recovering such apportioned parts when payable, allowing pro-

Recovering  
apportioned  
parts



portionate parts of all just allowances, as they respectively would have had for recovering such entire portions if entitled thereto.

As to rents reserved in certain cases

(2) The persons liable to pay rents reserved out of or charged on lands or other hereditaments, and the same lands or other hereditaments, shall not be resorted to for any such apportioned part forming part of an entire or continuing rent specifically, but the entire or continuing rent, including such apportioned part, shall be recovered and received by the heir or other person, who, if the rent had not been apportionable under this Act, or otherwise, would have been entitled to such entire or continuing rent, and such apportioned part is recoverable by action from such heir or other person by the executors or other persons entitled to it under this Act. R.S.O. 1960, c. 16, s. 5.

Policies of assurance, stipulation against apportionment

**6.** Nothing in this Act renders apportionable any annual sums made payable in policies of assurance of any description, or extends to any case in which it is expressly stipulated that no apportionment is to take place. R.S.O. 1960, c. 16, s. 6.

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CHAPTER 24

The Apprenticeship and Tradesmen's  
Qualification Act

1. In this Act,

Interpre-  
tation

- (a) "apprentice" means a person who is at least sixteen years of age and who has entered into a contract under which he is to receive, from or through his employer, training and instruction in a trade;
- (b) "Director" means the Director of Apprenticeship;
- (c) "employer" includes the Crown and any other public authority, the Ontario Apprenticeship Institute and any local apprenticeship committee;
- (d) "Minister" means the Minister of Labour;
- (e) "regulations" means the regulations made under this Act. 1964, c. 3, s. 1.

2.—(1) There shall be appointed a Director of Apprenticeship and such other officers, clerks and servants as are considered expedient for the purposes of this Act.

Director  
and staff

(2) Subject to the approval of the Minister, the Director may appoint one or more examiners to assist in the conduct of examinations prescribed for any trade, and such examiners, upon the direction of the Lieutenant Governor in Council, may be paid their travelling expenses and a *per diem* allowance for their services out of such moneys as are appropriated therefor by the Legislature. 1964, c. 3, s. 2.

Examiners

3.—(1) The Minister may appoint a provincial advisory committee in any trade or group of trades to advise him in matters relating to the establishment and operation of apprentice training programs and tradesmen's qualifications.

Provincial  
advisory  
committees,  
appoint-  
ment

(2) Every provincial advisory committee shall consist of not fewer than five members made up of equal numbers of representatives of employers and of employees and the Director or such other officer of the Department of Labour as may be designated by him.

com-  
position

(3) The representatives of employers and employees on a provincial advisory committee shall be appointed for terms of one, two or three years, and having served a term shall not be reappointed for at least two years.

term of  
office of  
appointed  
members

vacancies

(4) When a vacancy occurs on a provincial advisory committee during a term of office, the Minister may fill the vacancy for the unexpired portion of the term.

travelling  
expenses  
allowances,  
etc.

(5) The Lieutenant Governor in Council may direct payment, out of such moneys as are appropriated therefor by the Legislature, of the travelling expenses of the members of provincial advisory committees and a *per diem* allowance for the time spent by such members in attending meetings, and of any expenses properly incurred by such a committee in carrying out its duties. 1964, c. 3, s. 3.

Local  
apprentice-  
ship com-  
mittees

4. The Director may appoint local apprenticeship committees composed of such persons as he considers appropriate for any area of Ontario to advise and assist him in matters relating to apprenticeship or tradesmen's qualifications in the area. 1964, c. 3, s. 4.

Agreements  
respecting  
manpower  
training

5. With the approval of the Lieutenant Governor in Council, the Minister may enter into one or more agreements with the Minister of Labour of Canada respecting apprentice or manpower training. 1964, c. 3, s. 5.

Duties of  
Director

6. Subject to the supervision and control of the Minister, it is the duty of the Director to administer and enforce this Act, and, without limiting the generality of the foregoing, for the purposes of this Act,

- (a) to collaborate with persons and organizations in the determination of training requirements in any trade;
- (b) to undertake or collaborate in studies or investigations of any trade and of the requirements for the supply and training of persons therefor;
- (c) to publicize and promote apprenticeship as a method of training in any trade;
- (d) to plan and carry out programs of apprenticeship in any trade; and
- (e) generally to perform such other duties as are assigned to him by the Minister for the carrying out of this Act. 1964, c. 3, s. 6.

Powers of  
Director

7.—(1) For the purpose of carrying out this Act, the Director, or any person authorized by the Minister in writing, may,

- (a) inspect the premises, equipment and training facilities of an employer;
- (b) inspect and examine all books, payrolls and other records of an employer that in any way relate to the

wages, hours of labour or conditions of employment of any person;

- (c) take extracts from or make copies of any entry in such books, payrolls and records;
- (d) require an employer to make full disclosure and production of all records, documents, statements, writings, books, papers, extracts therefrom or copies thereof that the employer may have in his possession or control, or other information, either oral or in writing and either verified by oath or otherwise, that in any way relate to the wages, hours or labour or conditions of employment of persons employed by him; and
- (e) upon notice to the parties and after giving them an opportunity to be heard, cancel for cause contracts of apprenticeship.

(2) Notwithstanding any of the provisions of this Act or the regulations, the Director may register any person as an apprentice, or grant a certificate of apprenticeship, a certificate of qualification or a certificate of proficiency to any person, who, in the opinion of the Director, is unable by reason of physical incapacity or other circumstances to take or complete the prescribed course of study or training in a trade or apprentice training program. 1964, c. 3, s. 7. Idem,  
special  
circum-  
stances

**8.**—(1) Every person who commences to work at a trade for which an apprentice training program is established but who does not hold a certificate of apprenticeship or qualification in that trade shall, Duty to  
register  
as an  
apprentice

- (a) forthwith apply in the prescribed form for apprenticeship in that trade; and
- (b) within three months after commencing to work in that trade, file with the Director his contract of apprenticeship. 1964, c. 3, s. 8 (1), *amended*.

(2) Every person who fails to comply with subsection 1 shall, upon the expiration of the period of three months mentioned in clause b of subsection 1, cease to work in that trade until he files with the Director his contract of apprenticeship or until the Director authorizes in writing the continuation or resumption of such work. 1964, c. 3, s. 8 (2). Idem

**9.** Where an apprentice training program is established for a trade, every employer in the trade employing any person under twenty-one years of age, Persons  
under 21

- (a) who is not an apprentice in that trade; or
- (b) who does not hold a certificate of apprenticeship or qualification in that trade,

shall immediately notify the Director of the particulars of the employment and of the name and address of the person so employed in order that the Director may inform the person so employed of his rights and duties under this Act. 1964, c. 3, s. 9.

Certified  
trades

**10.**—(1) The Lieutenant Governor in Council may designate any trade as a certified trade for the purposes of this Act, and may provide for separate branches or classifications within the trade. 1964, c. 3, s. 10 (1).

Persons who  
may work in  
a certified  
trade

(2) No person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection 4, shall work or be employed in a certified trade unless he holds a subsisting certificate of qualification in the certified trade.

Persons who  
may be  
employed in  
a certified  
trade

(3) No person shall employ any person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection 4, in a certified trade unless the person employed holds a subsisting certificate of qualification in the certified trade. 1968-69, c. 5, s. 1.

Qualifica-  
tion of those  
in the trade  
at time of  
designation

(4) When a trade is certified under subsection 1, a person who is working in the trade at the time that it is certified shall be allowed a period of two years from the first day of the month following the month in which the trade is certified to qualify for a certificate of qualification in the trade, if he,

- (a) is the holder of a certificate of apprenticeship in the trade; or
- (b) satisfies the Director that he has been continuously engaged as a journeyman in the trade for a period of time in excess of the apprenticeship period for the trade; or
- (c) satisfies the Director that he is qualified to work in the trade and meets such other requirements as the Director may prescribe. 1964, c. 3, s. 10 (3).

Employment  
of appren-  
tices on  
government  
contracts  
R.S.O. 1970  
c. 394

**11.** Where an apprentice training program for a trade is in effect, no work shall be done in that trade on a public work within the meaning of *The Public Works Creditors Payment Act* unless the contractor, as defined in that Act, has in his employ the number of apprentices required under the regulations. 1964, c. 3, s. 11.

Strikes  
R.S.O. 1970,  
c. 232

**12.** Where an apprentice lawfully strikes within the meaning of *The Labour Relations Act*, he shall be deemed not to have broken his contract of apprenticeship. 1964, c. 3, s. 12.

Essentials  
of appren-  
ticeship  
contracts

**13.** Every contract of apprenticeship shall be,

- (a) for a period of at least two years;



- (b) in the prescribed form;
- (c) signed,
  - (i) by the employer,
  - (ii) by the person to be apprenticed, and
  - (iii) if he is under twenty-one years of age, by a parent or the guardian of the person to be apprenticed, but, if neither parent nor the guardian is willing to sign or is capable of signing, a judge of the county or district court of a county or district in which the employer carries on business may, upon the application of the person to be apprenticed and without the appointment of a next friend, dispense with the signature of either parent or of the guardian upon proof to the satisfaction of the judge that the contract is in the interests of the person to be apprenticed; and
- (d) approved by the Director. 1964, c. 3, s. 13.

**14.** Every contract of apprenticeship shall, upon its approval by the Director, be registered by him forthwith. 1964, c. 3, s. 14. Registration of contracts

**15.** Every apprentice who is under twenty-one years of age shall perform and is entitled to the benefits of his contract of apprenticeship in accordance with its terms in the same manner and to the same extent as if he were of the full age of twenty-one years. 1964, c. 3, s. 15. Minors

**16.—(1)** A contract of apprenticeship shall not be terminated before the completion of the apprenticeship period provided therein except by, Termination of apprenticeship contracts

- (a) the death of either party;
- (b) consent, express or implied, of the parties; or
- (c) cancellation for cause of the contract.

(2) Where in the opinion of the Director the terms of a contract of apprenticeship cannot be fulfilled to the advantage of either party, he may arrange for the transfer of the contract. Transfer

(3) The termination, cancellation or transfer of a contract of apprenticeship shall be noted by the Director on the registered copy of the agreement. 1964, c. 3, s. 16. Termination, etc., to be noted

**17.—(1)** Every person, Offences

- (a) who contravenes any provision of this Act or the regulations;
- (b) who fails to carry out the terms of a contract of apprenticeship under this Act;

- (c) who enters into a contract or arrangement relating to the employment of an apprentice that is not in accordance with this Act;
- (d) who withholds any information with regard to the working or training conditions of apprentices or makes any misrepresentation with regard thereto;
- (e) who obstructs, hinders, prevents or otherwise interferes with the carrying out of this Act or the regulations or the terms of a contract of apprenticeship under this Act; or
- (f) who uses for the purpose of obtaining employment or business a certificate of apprenticeship, a certificate of qualification or a certificate of proficiency issued to another person,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1964, c. 3, s. 17 (1).

Collection  
of arrears  
of appren-  
tice's wages

(2) In addition to any fine that may be imposed on an employer for his failure to pay an apprentice the wages due an apprentice, the provincial judge may order the employer to pay to the Director in trust for the apprentice an amount equal to the arrears of wages to which the apprentice is entitled, and, when the order becomes final, a copy of it, certified as a true copy by the provincial judge who made it, may be filed by the Director with the clerk of the county or district court of a county or district in which the employer carries on business or, where the amount of arrears does not exceed \$400, with the clerk of a like small claims court, and, when so filed and upon payment of the fees of the clerk of the court, such order becomes an order of the court in which it is filed and may be enforced as a judgment of the court against the employer for the amount mentioned in the order and the fees so paid. 1964, c. 3, s. 17 (2), *amended*.

Regulations

**18.** The Lieutenant Governor in Council may make regulations,

- (a) defining any trade;
- (b) establishing an apprentice training program for any trade or group of trades;
- (c) exempting any trade or class of persons in a trade from this Act and the regulations or from any provision of either of them;
- (d) providing a system of proficiency certificates for any trade not designated as a certified trade under section 10;
- (e) providing for approval by the Director of apprentice training programs established by employers;

- (f) providing licences for trade schools teaching any trade to which this Act applies and respecting their issue, renewal, revocation and suspension, and prescribing courses of study and methods of training in such trade schools and respecting their operation;
- (g) respecting the periods of apprenticeship, qualifications and training of apprentices in any trade;
- (h) approving or prescribing courses of training or study for apprentices, and fixing the credits to be allowed for such courses;
- (i) prescribing, in respect of any trade, rates of wages for applicants for apprenticeship or apprentices or any class of applicants or apprentices;
- (j) prescribing the maximum number of persons who may be apprenticed to an employer in a trade;
- (k) respecting the ratio of apprentices to journeymen who may be employed by an employer in a trade;
- (l) respecting the issue, posting, cancellation, suspension or renewal of certificates under this Act;
- (m) respecting the making, registration or transfer of contracts of apprenticeship;
- (n) requiring and providing for the posting up in employers' premises of extracts from this Act or the regulations;
- (o) defining any expression used in this Act for the purposes of this Act;
- (p) providing for and prescribing fees;
- (q) prescribing forms and providing for their use;
- (r) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1964, c. 3, s. 18.

**19.—(1)** Certificates issued under a predecessor of this Act and subsisting when this Act comes into force continue in force as though this Act had not been passed. Transitional provision, certificates

(2) Contracts of apprenticeship approved and registered under a predecessor of this Act and subsisting when this Act comes into force shall be deemed to have been approved and registered by the Director under this Act. 1964, c. 3, s. 19. Contracts of apprenticeship



CHAPTER 25

The Arbitrations Act

1. In this Act,

(a) “court” means the Supreme Court;

(b) “judge” means a judge of the Supreme Court;

(c) “rules of court” means the rules of the Supreme Court made under *The Judicature Act*;

(d) “submission” means a written agreement to submit present or future differences to arbitration, whether or not an arbitrator is named therein. R.S.O. 1960, c. 18, s. 1.

Interpretation  
R.S.O. 1970, c. 228
2. This Act applies to an arbitration to which Her Majesty is a party. R.S.O. 1960, c. 18, s. 2.

Crown
3. This Act applies to every arbitration under any Act passed before or after the commencement of this Act as if the arbitration were pursuant to a submission, except in so far as this Act is inconsistent with the Act regulating the arbitration or with any rules or procedure authorized or recognized by that Act. R.S.O. 1960, c. 18, s. 3.

References under statutory powers
4. A submission, unless a contrary intention is expressed therein, is irrevocable, except by leave of the court, and has the same effect as if it had been made an order of the court. R.S.O. 1960, c. 18, s. 4.

Irrevocability of submission
5. A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in Schedule A, so far as they are applicable to the reference. R.S.O. 1960, c. 18, s. 5.

What submission to include
6. Where a submission provides that the reference is to an official referee, any official referee to whom application is made shall hear and determine the matters agreed to be referred. R.S.O. 1960, c. 18, s. 6.

Official referee to act
7. If a party to a submission, or a person claiming through or under him, commences any legal proceeding in any court against any other party to the submission, or any person claiming through or under him, in respect of any matter agreed to be

Staying legal proceedings taken after submission



referred, any party to such legal proceeding may at any time after appearance and before delivering any pleading or taking any other step in the proceeding apply to that court to stay the proceeding and a judge of that court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceeding was commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceeding. R.S.O. 1960, c. 18, s. 7.

Appoint-  
ment by  
court

**8.—(1)** In any of the following cases,

- (a) where a submission provides that the reference is to a single arbitrator and the persons whose concurrence is necessary do not, after differences have arisen, concur in the appointment of an arbitrator; or
- (b) where an arbitrator, an umpire or a third arbitrator is to be appointed by a person and such person does not make the appointment; or
- (c) unless the submission otherwise provides, where an arbitrator, an umpire or a third arbitrator refuses to act or is incapable of acting or dies and the vacancy is not supplied by the person having the right to fill the vacancy,

a party may serve the other party or the arbitrators, or the person who has the right to make the appointment, as the case may be, with a written notice to concur in the appointment of a single arbitrator or to appoint an arbitrator, umpire or third arbitrator.

When court  
may  
appoint

(2) If the appointment is not made within seven clear days after the service of the notice, a judge may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties. R.S.O. 1960, c. 18, s. 8.

Powers of  
arbitrators

**9.** An arbitrator or umpire acting under a submission has, unless the submission expresses a contrary intention, power,

- (a) to administer oaths to the parties and witnesses;
- (b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and
- (c) to correct in an award any clerical mistake or error arising from any accidental slip or omission. R.S.O. 1960, c. 18, s. 9.

Enlarging  
time for  
making  
award

**10.** The time for making an award may from time to time be enlarged by a judge whether or not the time for making the award has expired. R.S.O. 1960, c. 18, s. 10.

- 11.**—(1) The court may remit the matters referred, or any of them, to the reconsideration of the arbitrators or umpire. Remitting for reconsideration
- (2) The arbitrators or umpire shall, unless the order otherwise directs, make the award within three months after the date of the order. R.S.O. 1960, c. 18, s. 11. When award to be made
- 12.**—(1) Where an arbitrator or umpire has misconducted himself, the court may remove him. Removal of arbitrator
- (2) Where an arbitrator or umpire has misconducted himself or an arbitration or award has been improperly procured, the court may set the award aside. R.S.O. 1960, c. 18, s. 12. Setting aside award
- 13.** An award may, by leave of a judge, be enforced in the same manner as a judgment or order to the same effect. R.S.O. 1960, c. 18, s. 13. Enforcing award
- 14.** A party to a submission may sue out of the court a writ of subpoena *ad testificandum* or a writ of subpoena *duces tecum*, but no person shall be compelled under any such writ to produce any document that he would not be compellable to produce on the trial of an action. R.S.O. 1960, c. 18, s. 14. Subpoenaing witnesses
- 15.**—(1) Where a party to a submission desires to procure for use upon the reference the evidence of a person to be taken *de bene esse* or to be taken out of Ontario, an order may be made for the examination of such person or for the issue of a commission in the like circumstances and with the like effect as a similar order may be made in an action. Commission to examine witnesses
- (2) *The Judicature Act* and the rules of court apply to such order or commission and to the proceedings thereon and the evidence taken thereunder. R.S.O. 1960, c. 18, s. 15. Application of R.S.O. 1970, c. 228 and rules
- 16.**—(1) Where it is agreed by the terms of the submission that there may be an appeal from the award, an appeal lies to a judge in court and from him to the Court of Appeal. Where submission provides for appeal
- (2) Where by the agreement of the parties or by the provisions of any statute there is an appeal from an award, the party taking up the award shall file it with the registrar of the court and shall serve a copy of it and a notice of its filing upon the opposite party. Procedure by party taking up award
- (3) Notice of appeal may be served within fourteen days returnable within thirty days after service of the copy of the award and notice of filing. Notice of appeal
- (4) In all cases in which there is a right of appeal, the evidence of the witnesses shall be taken down in longhand and be signed by the witnesses, or be taken in shorthand. Taking evidence in writing

Evidence  
to be  
transcribed  
only on  
an appeal

(5) It is not necessary that evidence taken in shorthand be transcribed unless an appeal is taken.

Exhibits,  
transmission  
to registrar

(6) Upon the request of the party appealing, the exhibits shall be transmitted by the arbitrator to the office of the registrar of the court for the purpose of the appeal.

Oath of  
stenographer

(7) A stenographer employed to take evidence in shorthand shall be sworn to take down and transcribe the evidence faithfully and shall certify to the accuracy of all copies supplied.

Statement of  
proceeding  
on view or  
special  
knowledge

(8) Where the arbitrators proceed wholly or partly on a view or any knowledge or skill possessed by themselves or any of them, they shall also put in writing a statement thereof sufficiently full to enable a judgment to be formed of the weight that should be attached thereto.

Requiring  
further  
report from  
arbitrator

(9) The court may require explanations or reasons from the arbitrator and may remit the matter or any part thereof to him for further consideration.

Powers of  
court as to  
extension  
of time

(10) The court may extend the time limited by this section either before or after its expiry or may dispense with compliance with the requirements of this section. R.S.O. 1960, c. 18, s. 16.

Interpre-  
tation

### **17.** In sections 18 to 24,

- (a) "arbitrator" and "arbitrators" include an umpire and a referee in the nature of an arbitrator;
- (b) "award" includes umpirage and a certificate in the nature of an award. R.S.O. 1960, c. 18, s. 17.

Agreement  
as to fees to  
be paid to  
arbitrators

**18.** The parties to a submission may agree, by writing signed by them or by making such agreement a part of the submission, to pay to the arbitrator or to the arbitrators, if more than one, such fees for each day's attendance, or such gross sum for taking upon themselves the burden of the reference and making the award, as the parties see fit, and no arbitrator shall take or receive from either party to a submission any greater fee than that provided by Schedule B, and the receipt of any greater fee may be regarded as misconduct justifying the setting aside of the award. R.S.O. 1960, c. 18, s. 18.

Fees to  
witnesses

**19.** No greater fees shall be taxed to a person called as a witness before an arbitrator than would be taxed to him in an action in the court. R.S.O. 1960, c. 18, s. 19.

Costs of  
meeting  
where no  
proceedings

**20.** Where at a meeting of arbitrators of which due notice has been given no proceedings are taken in consequence of the absence of a party, or of a postponement at the request of a party, the

arbitrators shall make up an account of the costs of the meeting, including the proper charges for their own attendance and that of any witnesses and of the counsel or solicitor of the party present and not desiring the postponement, and, unless under the special circumstances of the case they think that it would be unjust so to do, they shall charge the amount thereof, or of the disbursements, against the party in default or at whose request the postponement is made, and the last mentioned party shall pay the same to the other party, whatever may be the event of the reference, and the arbitrators shall, in the award, make any direction necessary for that purpose, and the amount so charged may be set off against, and deducted from, any amount awarded in his favour. R.S.O. 1960, c. 18, s. 20.

**21.**—(1) A party to an arbitration is entitled to have the costs thereof, including the fees of the arbitrators, or such fees alone, taxed by one of the taxing officers of the court at Toronto upon an appointment that may be given by the taxing officer for that purpose on the filing of an affidavit setting forth the facts. Taxation, at instance of parties

(2) A taxation of the fees of the arbitrators may be had upon an appointment given at the instance of the arbitrators or any of them upon a like affidavit. R.S.O. 1960, c. 18, s. 21. at instance of arbitrators

**22.**—(1) The taxing officer shall in no case, except as provided in section 18, tax higher fees than are mentioned in Schedule B to the arbitrators but, upon reasonable grounds, he may reduce the fees to any amount below the maximum mentioned in the Schedule, but not below the minimum, having regard always to the length of the arbitration, the value of the matter in dispute, and the difficulty of the questions to be decided, and the fees to be allowed to solicitors and counsel shall be as nearly as may be similar to the fees allowed upon a reference in the court or the county court, the scale to be determined by the taxing officer having regard to the value of the matter in dispute, but he shall not tax more than one counsel fee to either party. Discretion of taxing officer

(2) The taxing officer may tax a reasonable sum for preparing the award. Costs of award

(3) An appeal may be had from such taxation in the same manner as from a taxing officer's certificate of taxation in an action. Appeal from taxation

(4) The taxing officer and the judge upon appeal from taxation have the power to reduce fees payable to the arbitrator and to counsel and solicitors where the arbitration has been unduly prolonged. R.S.O. 1960, c. 18, s. 22. Power to reduce fees



Penalty for arbitrator attempting to exact excessive fees

**23.** An arbitrator who, after having entered upon the reference, refuses or delays after the expiration of one month from the publication of the award to deliver it until a larger sum is paid to him for his fees than is permitted by this Act, or who receives for his award or for his fees as arbitrator any such larger sum, shall forfeit and pay to the party who has demanded delivery of the award or who has paid to the arbitrator such larger sum in order to obtain, or as a consideration for having obtained it, treble the excess so demanded or received by the arbitrator contrary to this Act, to be recovered by action in a court of competent jurisdiction. R.S.O. 1960, c. 18, s. 23.

Arbitrator to have action for fees

**24.** Where an award has been made, the arbitrator may maintain an action for his fees after they have been taxed, and in the absence of an express agreement to the contrary, he may maintain such action against all the parties to the reference, jointly or severally. R.S.O. 1960, c. 18, s. 24.

Order to sheriff to produce prisoner as witness

**25.** A judge may order the sheriff, jailer or other officer having the custody of a prisoner to produce him for examination before an arbitrator or an umpire. R.S.O. 1960, c. 18, s. 25.

Case stated for opinion of court

**26.** An arbitrator or an umpire may at any stage of the proceedings and shall, if so directed by the court, state in the form of a special case for the opinion of the court any question of law arising in the course of the reference, and an arbitrator or umpire appointed under the authority of a statute or by a court shall, when so directed by the court, state the reasons for his decision and his findings of fact and of law. R.S.O. 1960, c. 18, s. 26.

Costs in discretion of court

**27.** An order made under this Act may be made on such terms as to costs or otherwise as the authority making the order thinks just. R.S.O. 1960, c. 18, s. 27.

Dispensing with filing original exhibits

**28.** An arbitrator or an umpire, where no special reason appears to him to exist for filing an original book, paper or document as an exhibit, as hereinbefore provided, may allow a copy thereof or of such part thereof as he considers material to be substituted as an exhibit in the place of the original book, paper or document. R.S.O. 1960, c. 18, s. 28.

Production of exhibits on appeal or motion to set aside award

**29.** Upon an appeal from or motion to set aside an award, any party may by notice require any other party to produce, and the party so required shall produce upon the hearing of the appeal or motion, any original book, paper or document in his possession that has been used as an exhibit or given in evidence upon the reference and that has not been filed with the depositions. R.S.O. 1960, c. 18, s. 29.



**30.**—(1) Except by leave of the court, an application to set aside an award, otherwise than by way of appeal, shall not be made after six weeks from the publication of the award.

Time for moving to set aside

(2) Such leave may be granted before or after the expiration of the six weeks.

Time within which leave may be granted

(3) In the computation of time for appealing against, or applying to set aside, an award, the vacations shall not be reckoned.

Vacations not reckoned

(4) When an award is set aside, the court setting it aside may give directions as to the costs of the reference and award. R.S.O. 1960, c. 18, s. 30.

Costs of reference and award when award set aside

**31.** Subject to the approval of the Lieutenant Governor in Council, rules of court for the better carrying out of the purposes of this Act and regulating the practice thereunder may be made by the Rules Committee. R.S.O. 1960, c. 18, s. 31.

Power to make rules

**32.**—(1) A judge has power to appoint a valuator, valuer or appraiser in cases in which it is provided by a written agreement that a valuation or appraisal shall be made by a valuator, valuer or appraiser.

Appointment of valuator, etc.

(2) The power may be exercised in the like cases and the proceedings shall be the same as provided by section 8, except that the court does not have power, without the consent of the parties, to appoint a valuator, valuer or appraiser in the place of the one who is named in the agreement and who refuses to act, is incapable of acting or dies. R.S.O. 1960, c. 18, s. 32.

Exercise of power

## SCHEDULE A

*(Section 5)*

## PROVISIONS TO BE IMPLIED IN SUBMISSIONS

1. If no other mode of reference is provided, the reference is to a single arbitrator.
2. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.
3. If an arbitrator or umpire or third arbitrator refuses to act or is incapable of acting or dies, the party or parties, or the arbitrators by whom he was appointed, may appoint an arbitrator, umpire or third arbitrator, as the case may be, in his stead, and this power may be exercised from time to time as vacancies occur.
4. The submission is not revoked by the death of the parties or either of them.
5. The award shall be delivered to any of the parties requiring it, and the personal representatives of a party deceased may require delivery of the award.
6. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later date to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.
7. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.
8. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.
9. The parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings, documents and things within their possession or power respectively that may be required or called for, and do all other things during the proceedings on the reference that the arbitrators or umpire require.
10. The witnesses on the reference shall be examined on oath.
11. The award to be made by the arbitrators or by a majority of them or by the umpire is final and binding on all the parties and the persons claiming under them respectively.
12. The costs of the reference and award are in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid.

SCHEDULE B

(Sections 18 and 22)

FEES CHARGEABLE BY ARBITRATORS

1. For every meeting where the reference is not proceeded with, but a postponement is made at the request of any party,	
not less than . . . . .	\$ 20
nor more than . . . . .	40
2. For every day's sittings, to consist of not less than six hours,	
not less than . . . . .	50
nor more than . . . . .	100
3. Where a day's sittings consists of more than six hours, for each additional hour,	
not less than . . . . .	10
nor more than . . . . .	15
4. For every sittings not extended to six hours (fractional parts of hours being excluded) where the reference is actually proceeded with, for each hour occupied,	
not less than . . . . .	10
nor more than . . . . .	15

1965, c. 4, s. 1.

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CHAPTER 26

The Archaeological and Historic Sites  
Protection Act

1. In this Act,

Interpre-  
tation

(a) “archaeological object” means an object of archaeological significance found at an archaeological site;

(b) “archaeological site” means land of archaeological significance that is designated as such by the Minister;

(c) “historical object” means an object of historical significance found at an historic site;

(d) “historic site” means land of historical significance that is designated as such by the Minister;

(e) “Minister” means the member of the Executive Council charged for the time being with the administration of this Act;

(f) “permit” means a valid and subsisting permit issued under this Act. R.S.O. 1960, c. 19, s. 1.
2. The Minister may designate any land as an archaeological site or as an historic site. R.S.O. 1960, c. 19, s. 2.

Designation  
of sites
3. No person shall excavate or alter an archaeological site or an historic site or remove any archaeological or historical object therefrom unless he is the holder of a permit. R.S.O. 1960, c. 19, s. 3.

Permit  
holders  
only may  
excavate,  
etc.
- 4.—(1) Upon application made to him in writing, the Minister may issue a permit to any person to excavate or alter an archaeological site and remove archaeological objects therefrom, or to excavate or alter an historic site and remove historical objects therefrom.

Minister  
may issue  
permits
- (2) The Minister may limit a permit as to time and location and may impose such other terms and conditions as he considers proper.

Terms and  
conditions
- (3) The Minister may cancel a permit at any time. R.S.O. 1960, c. 19, s. 4.

Cancellation



Consent of  
owner

**5.** A permit holder shall not excavate or alter an archaeological or historic site or remove any archaeological or historical object therefrom without the consent of the owner. R.S.O. 1960, c. 19, s. 5.

Reports

**6.** Within a reasonable time after the close of each season's field work, every permit holder shall furnish, in duplicate, to the Minister a report containing full details of the work done, including details of any stratification or other chronological evidence encountered, and such other information as the Minister may require. R.S.O. 1960, c. 19, s. 6.

Disposal of  
objects

**7.—**(1) Any archaeological or historical object that is taken by a person who is not a permit holder or by a permit holder in contravention of his permit or this Act may be seized by a person authorized so to do by the Minister and turned over to and deposited in such public institution as the Minister may designate.

Idem

(2) The Minister may direct that any archaeological or historical object taken under the authority of a permit be turned over to and deposited in such public institution as he may designate. R.S.O. 1960, c. 19, s. 7.

Offence

**8.** Every person who contravenes any provision of this Act or a permit or a direction of the Minister under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 19, s. 8.

Advisory  
board

**9.—**(1) The Minister may establish an advisory board, consisting of not more than twelve members, to advise him upon all matters to which this Act refers. R.S.O. 1960, c. 19, s. 9 (1); 1965, c. 5, s. 1.

Remunera-  
tion and  
expenses

(2) The members of the advisory board shall receive such remuneration for their services as the Lieutenant Governor in Council determines and shall be paid proper travelling and other expenses incurred in the work of the board. R.S.O. 1960, c. 19, s. 9 (2).

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## CHAPTER 27

## The Architects Act

**1.** The Ontario Association of Architects, hereinafter called the "Association", is continued as a body corporate. R.S.O. 1960, c. 20, s. 1.

The Ontario  
Association  
of  
Architects  
continued

**2.** The objects of the Association are to promote and increase the knowledge, skill and proficiency of its members in all things relating to the profession of architecture and to advance and maintain a high standard in the practice of architecture in Ontario, and to those ends to establish and maintain or to assist in the establishment and maintenance of classes, schools, exhibitions or lectures in, and to promote public appreciation of, architecture and the allied arts and sciences. R.S.O. 1960, c. 20, s. 2.

Objects

**3.** The Association may acquire by purchase, lease or otherwise and possess real estate for its purposes, but for no other purposes, and may sell, mortgage, lease or otherwise dispose of any of its real estate. R.S.O. 1960, c. 20, s. 3, *amended*.

Power to  
hold real  
estate

**4.** The head office of the Association shall be at the City of Toronto. R.S.O. 1960, c. 20, s. 5.

Head office

**5.—(1)** Membership in the Association shall be granted by the Registration Board of the Association on application to it if the applicant,

Qualifica-  
tions for  
membership

- (a) is of good character;
- (b) is not less than twenty-one years of age;
- (c) has passed the prescribed examination of the Registration Board or is exempted therefrom pursuant to its regulations;
- (d) is domiciled in Ontario; and
- (e) is a British subject, or has taken the oath of allegiance and declared his intention of becoming a British subject.

**(2)** No corporation shall be granted membership in the Association or be licensed to practise architecture in Ontario. R.S.O. 1960, c. 20, s. 7.

Corporations  
excluded

Non-resident  
architects  
desiring to  
practise

**6.** Membership in the Association or temporary licences to practise in Ontario may be granted, upon such terms and subject to such conditions as the Registration Board by regulation provides, to any person who is a British subject domiciled outside Ontario but within the Commonwealth who is a member of an association or society of architects within the Commonwealth recognized by the Board. R.S.O. 1960, c. 20, s. 8.

Council of  
Association

**7.—(1)** There shall be a council of the Association, in this Act called the “Council”, which shall consist of six members who shall be elected and hold office as provided in this section and where the immediate past president of the Association has not been re-elected to the Council, he shall also be a member thereof until he ceases to be the immediate past president, and the Council has power by by-law to increase the number of its members.

Electoral  
districts

**(2)** At least one member of the Council shall be elected from each of five electoral districts to be known as the “Windsor”, “Hamilton”, “Toronto”, “London” and “Ottawa” districts, and the five districts shall be composed as set forth in the Schedule, but the Council may by by-law alter the composition of any of the electoral districts and in any by-law increasing the number of members of the Council may provide for the creation of one or more new electoral districts and for the election of at least one member of the Council from each new district.

Inclusion of  
city or town

**(3)** An electoral district established by reference to a county or territorial district includes the cities and separated towns therein.

Term of  
office

**(4)** Members of the Council shall hold office for three years from the 1st day of January following the date of their election.

Filling  
vacancies

**(5)** Any number of the Council may resign by letter addressed to the president of the Association, and every vacancy caused by the death, resignation or incapacity to act of a member of the Council shall be filled by a member of the Association,

- (a)** if a quorum of the council remains in office, appointed by a majority vote of the members of the Council; or
- (b)** if no quorum of the Council remains in office, elected under this section,

and a person so appointed or elected shall be from the electoral district of the member whose place he is appointed or elected to fill and shall hold office for the unexpired portion of the term of such member.

Re-election

**(6)** A retiring member of the Council is not eligible for re-election for the year immediately following his retirement, except where he is the president or vice-president at the date of his retirement. R.S.O. 1960, c. 20, s. 9, *amended*.

**8.**—(1) The Registration Board of the Association, in this Act called the “Board”, is continued and shall carry on the functions of the Architects’ Registration Board established under *The Architects’ Act, 1931*, except as herein varied, and the Board shall be composed as follows:

Registration  
Board

1931, c. 43

1. One member of the Association to be appointed by the University of Toronto and one member of the Association by each other university, college or body in Ontario that is by law authorized to grant degrees in architecture and that establishes and maintains to the satisfaction of the Board a faculty, school or department of architecture in connection therewith, each member appointed under this paragraph to hold office for a period of three years from the 1st day of January following his appointment.
2. One member of the Association to be appointed by the Lieutenant Governor in Council, to hold office for a period of three years from the 1st day of January following his appointment.
3. Three members of the Association for the first appointee under paragraph 1 and one additional member of the Association for each additional appointee under paragraph 1, these members to be elected in the manner hereinafter provided, and each to hold office for three years from the 1st day of January following his election.

University  
appointees

Government  
appointee

Elected  
members

(2) Any member of the Board not otherwise disqualified is eligible for reappointment or re-election at the expiration of his term, but a member of the Council elected to the Board shall resign his seat on the Council before taking his seat on the Board, and a member of the Board, while in office, is not eligible for election to the Council.

Eligibility  
for re-  
appointment

(3) Any member of the Board may resign by letter addressed to the chairman of the Board, and every vacancy on the Board caused by the death, resignation or incapacity to act of any member shall be filled,

Filling  
vacancies

- (a) if such member has been appointed under paragraph 1 of subsection 1 by the university, college or body that appointed him;
- (b) if such member has been appointed under paragraph 2 of subsection 1, by the Lieutenant Governor in Council; and
- (c) if such member has been elected under paragraph 3 of subsection 1, by a majority vote of the members of the Board still in office, if a quorum is still in office, or, if not, by election under the said paragraph 3,



and a member of the Board appointed or elected to fill a vacancy shall hold office for the unexpired portion of the term of the member whose place he is appointed or elected to fill. R.S.O. 1960, c. 20, s. 10, *amended*.

Right to  
vote

**9.** All members of the Association are entitled to vote at elections for the Council and for the elective members of the Board. R.S.O. 1960, c. 20, s. 11.

Regulations

**10.—**(1) The Board may make regulations,

- (a) for the admission of members of the Association and the annual renewal of membership therein;
- (b) prescribing the qualifications of persons to be admitted and the proofs to be furnished as to education, good character and experience;
- (c) prescribing examinations for admission and the method of conducting them;
- (d) for keeping a register of members of the Association and for issuing certificates of membership under the seal of the Association and calling in such certificates where membership lapses or is cancelled or suspended;
- (e) prescribing the fees to be paid on admission of members to the Association, by associates and student associates, on examinations, on annual renewal of membership in the Association and as annual fees by associates and student associates;
- (f) providing for the discipline and control of members of the Association, including provision for the signing or sealing of drawings and specifications prepared by members of the Association;
- (g) providing for the cancellation of membership for non-payment of fees and for the cancellation of membership where a member changes his domicile to a place outside the Commonwealth;
- (h) providing for the election of members of the Council and of the elective members of the Board, for the holding of meetings of the Board and for fixing the quorum of the Board;
- (i) for the election of a chairman and vice-chairman and the appointment of a secretary and such other officers of the Board as it desires and for prescribing their duties, and, subject to the provisions hereinafter contained, for fixing their remuneration;
- (j) for granting temporary licences to practise architecture under section 6 and fixing the fees to be paid thereon;



- (k) generally for the better carrying out of the powers vested in the Board.

(2) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations, Disciplinary regulations

- (a) providing for the investigation of any complaint that a member of the Association has been guilty of misconduct or incompetence, so as to render it desirable in the public interest that his membership be suspended or cancelled;
- (b) providing for the cancellation or suspension of the membership of any person found by the Board to be guilty of misconduct or incompetence and for the publication in the public press of notice of such cancellation or suspension and the reasons therefor;
- (c) providing the terms and conditions on which a member whose membership has been cancelled may in a proper case be restored to membership.

(3) A copy of every regulation made under this section shall be furnished to every member of the Association. R.S.O. 1960, Publication of regulations  
c. 20, s. 12, *amended*.

**11.** The Council may pass by-laws, By-laws

- (a) for the control and management of the real and personal property of the Association;
- (b) instituting and furnishing means and facilities for the promotion of knowledge, proficiency and a high standard of ethics in all things relating to the practice of architecture;
- (c) providing for scholarships, lectures and exhibitions;
- (d) for the holding of meetings of the Association and the Council and fixing the quorum thereat;
- (e) for the election of a president, vice-president, and treasurer of the Association and the appointment of a secretary and such other officers of the Association as the Council desires and for prescribing their duties, and, subject to the provisions hereinafter contained, for fixing their remuneration;
- (f) for the election of associates, student associates, and honorary members;
- (g) appointing representatives to other architectural associations or bodies and maintaining connection with the Royal Architectural Institute of Canada;

- (h) generally for carrying out the objects of the Association in all matters other than those referred to in section 10, all of which are reserved for regulation by the Board. R.S.O. 1960, c. 20, s. 13.

Application  
of funds of  
the  
Association

**12.** The Council shall provide from the funds of the Association all moneys required by the Board to enable it to function in accordance with the powers vested in it, and any funds of the Association may be applied in carrying out this Act and the regulations or by-laws made under it and in furthering the objects of the Association and paying the costs and expenses incurred for or incident to the enactment of this legislation. R.S.O. 1960, c. 20, s. 14.

Duty of  
Council and  
members in  
respect of  
complaints

**13.** It is the duty of each member of the Council to bring before it all complaints of misconduct or incompetence on the part of any member of the Association that may be brought to his attention and it is the duty of the Council to bring before the Board all such cases that in its opinion should be dealt with by the Board, but nothing herein prevents anyone from bringing before the Board any complaints of misconduct or incompetence on the part of any member of the Association. R.S.O. 1960, c. 20, s. 15.

Fees

**14.** There shall be paid to the members of the Council and the Board such fees for attendance and such reasonable travelling expenses as are fixed, in the case of the Board, by its regulations and, in the case of the Council, by by-law, such fees, exclusive of travelling expenses, not to exceed \$15 per meeting for the chairman of the Board and \$15 per meeting for the president of the Association and \$10 per meeting for any other member of the Board or the Council, but, where the secretary of the Board or the Council is also a member of the Board or the Council, he may be paid such salary as the body appointing him decides upon, in addition to or by way of substitution for his fee as a member of such body. R.S.O. 1960, c. 20, s. 16.

Chapters

**15.** Subject to the approval of the Council, members may form themselves into groups for promoting the objects of the Association, and such groups shall be known as Chapters and, subject to the approval of the Council, each Chapter has power to make by-laws for the admission of members and associates thereof, for the election of officers and the holding of meetings and for otherwise conducting its affairs. R.S.O. 1960, c. 20, s. 17.

Prohibition  
against use  
of word  
"architect",  
etc.

**16.—(1)** Every person who, not being a member of the Association, or who, having been a member, has had his membership cancelled or is under suspension, or who, not being licensed under section 6, applies to himself the term "architect" alone or in

combination with any other term, or who holds himself out as an architect, is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 for a first offence and to a fine of not less than \$300 and not more than \$500 or to imprisonment for a term of not more than three months, or to both, for any subsequent offence.

(2) Every corporation that applies to itself the term “architect” or “architects” alone or in combination with any other term or that holds itself out as an architect or as architects is guilty of an offence and the corporation or any director thereof, on summary conviction, is liable to a fine of not less than \$100 and not more than \$500 for a first offence and to a fine of not less than \$200 and not more than \$1,000, or to imprisonment for a term of not more than three months, or to both, for any subsequent offence.

Idem,  
corporations

(3) Without restricting the generality of subsections 1 and 2, any person or corporation who prepares or offers to prepare for a fee, commission or other remuneration any sketch, drawing or specification for a proposed building structure or for a structural alteration of or addition to an existing building structure, when such proposed work is to cost more than \$10,000, shall be deemed to hold himself or itself out as an architect.

Holding out  
as architect  
defined

(4) Nothing in this Act prevents or shall be construed to prevent,

Proviso

- (a) any person from performing his duties in the Canadian Armed Forces;
- (b) any member or licensee of the Association of Professional Engineers of the Province of Ontario under *The Professional Engineers Act* or any employee or person working under the responsibility of such member or licensee from performing architectural services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an engineer;
- (c) any partnership, association of persons or corporation that is entitled to practise in its own name under *The Professional Engineers Act* in accordance with the conditions therein prescribed from performing architectural services in the course of any work undertaken or proposed to be undertaken by such partnership, association or corporation pursuant to such entitlement;
- (d) any person or corporation from preparing a sketch, drawing or specification for a structure in, upon or pertaining to a mining property, or an alteration of or addition to an existing structure in, upon or pertaining to a mining property;

R.S.O. 1970,  
c. 366

- (e) a *bona fide* member of an architect's staff from preparing a sketch, drawing or specification in the course of his employment under the supervision of the architect;
- (f) a *bona fide* building contractor, whether a person or a corporation, or a *bona fide* member of such contractor's staff domiciled in Ontario from preparing a sketch, drawing or specification for such contractor's own use as a building contractor in the construction or alteration by such contractor, or by tradesmen employed by such contractor, of a building structure, whether it be proceeded with or not, and obtaining remuneration therefor;
- (g) any person or corporation from preparing a sketch, drawing or specification for interior decorations or the installation in the interior of a structure of fixtures, non-bearing partitions or equipment where the structural alterations involved do not raise considerations of strength or safety;
- (h) any person or corporation from using the term "Landscape Architect";
- (i) any person in the course of his employment under the supervision of or in conjunction with an architect from preparing a sketch, drawing or specification for work to be undertaken by his employer; or
- (j) any person, firm or corporation engaged in the business of selling prefabricated building structures from furnishing such drawings, diagrams and directions as are required for the assembling and erection of such structures.

Students,  
honorary  
members,  
etc.

(5) Associates, student associates and honorary members shall not be deemed to be members of the Association within the meaning of this section unless and until admitted to membership under section 5 or 6, but an honorary member or associate who has at some time been a member of the Association may continue to apply to himself the term "architect", but may not practise architecture. R.S.O. 1960, c. 20, s. 18, *amended*.

Board has  
power of  
commission  
under  
R.S.O. 1970,  
c. 379

**17.** In the investigation of a complaint against a member of the Association, the Board has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 20, s. 19.

No action  
to lie against  
Board or  
Council

**18.** No action shall be brought against the Board or the Council or any member or officer thereof for anything done under this Act or under any by-law or regulation made under this Act. R.S.O. 1960, c. 20, s. 20, *amended*.



**19.**—(1) Anyone whose membership has been suspended or cancelled may, within fifteen days after the date of the order of suspension or cancellation, appeal to the Court of Appeal from such order, and the practice and procedure in such appeal shall be the same as upon an appeal from the judgment of a judge of the Supreme Court presiding at a trial and the Court of Appeal has power to confirm, vary, vacate or set aside such order or to make such other order as it considers just, and to make an order for payment of the costs of the appeal and there shall be no further or other appeal.

Appeal

(2) Pending an appeal, the person whose membership is suspended or cancelled may continue to practise, but, unless the order of suspension or cancellation is set aside, he shall not practise after the appeal has been disposed of, except that, in the case of suspension, he may practise upon and after the expiry of the period of suspension. R.S.O. 1960, c. 20, s. 21.

Practising  
pending  
appeal

**20.** Every architect who wilfully makes a false certificate with respect to any work done or with respect to the cost, value or condition of any work or building is guilty of an offence and, in addition to being liable in damages for any injury or loss thereby suffered, is on summary conviction liable to a fine of not more than \$100. R.S.O. 1960, c. 20, s. 22.

False  
certificates

**21.** Every architect summoned to attend a civil or criminal court for the purpose of giving evidence in his professional capacity, for each day he so attends, is entitled to \$5 in addition to his travelling expenses, to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court. R.S.O. 1960, c. 20, s. 23.

Witness  
fees

**22.** All fees fixed by the regulations of the Board shall be deemed to be a debt due to the Association and are recoverable with the costs of the suit in the name of the Association in the small claims court of the division in which the member liable resides or practises as an architect. R.S.O. 1960, c. 20, s. 24, *amended*.

Recovery  
of fees



## SCHEDULE

*(Section 7 (2) )*

## ELECTORAL DISTRICTS

*Windsor*

Counties of Essex, Kent, and Lambton.

*Hamilton*

Counties of Wentworth, Simcoe, Brant, Waterloo, Wellington, Grey, Haldimand, and Norfolk and The Regional Municipality of Niagara.

*Toronto*

The Regional Municipality of York, The Municipality of Metropolitan Toronto and the counties of Ontario, Peel, Halton, Durham, Northumberland, Hastings, Lennox and Addington, Dufferin, Peterborough, Haliburton, Victoria, Prince Edward, and the districts of Haliburton, Parry Sound, Muskoka, Algoma, Manitoulin, Kenora, Rainy River, and Thunder Bay, and all places outside Ontario.

*London*

Counties of Middlesex, Huron, Bruce, Oxford, Elgin, and Perth.

*Ottawa*

Counties of Frontenac, Renfrew, Lanark, Grenville, Dundas, Stormont, Glengarry, Prescott and Russell, and Leeds, and The Regional Municipality of Ottawa-Carleton and the Districts of Nipissing, Sudbury, Timiskaming, and Cochrane.

R.S.O. 1960, c. 20, Sched., *amended*.

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## CHAPTER 28

## The Archives Act

**1.** The Department of Public Records and Archives, hereinafter called the "Department", is continued. R.S.O. 1960, c. 21, s. 1. Department continued

**2.**—(1) There shall be an officer in charge of the Department to be known as the Archivist of Ontario, hereinafter referred to as "the Archivist", who shall be appointed by the Lieutenant Governor in Council and who shall hold office during pleasure and be in charge of the administration of this Act under the direction of the member of the Executive Council to whom the charge of the Department is from time to time assigned. Provincial Archivist, appointment of

(2) The Archivist has the rank of a deputy head of a department and in relation to the Department has all the powers and shall perform the duties of a deputy head of a department. R.S.O. 1960, c. 21, s. 2. Powers and duties of Archivist

**3.** Subject to the regulations, all original documents, parchments, manuscripts, papers, records and other matters in the executive and administrative departments of the Government or of the Assembly, or of any commission, office or branch of the public service shall be delivered to the Department for safekeeping and custody within twenty years from the date on which such matters cease to be in current use. R.S.O. 1960, c. 21, s. 3. Custody of original documents

**4.** The Archivist is authorized and directed to receive and grant discharges for all such matters as are transferred to the Department under this Act and the Department is thereafter responsible for the safekeeping of the matters so transferred. R.S.O. 1960, c. 21, s. 4. Responsibility of Department

**5.** The objects of the Department are, Objects of Department

- (a) the classification, safekeeping, indexing and cataloguing of all matters transferred to the Department under section 3;
- (b) the discovery, collection and preservation of material having any bearing upon the history of Ontario;
- (c) the copying and printing of important public documents relating to the legislative or general history of Ontario;

- (d) the collecting of all documents having in any sense a bearing upon the political or social history of Ontario and upon its agricultural, industrial, commercial or financial development;
- (e) the collecting of municipal, school and church records;
- (f) the collection and preservation of pamphlets, maps, charts, manuscripts, papers, regimental muster rolls and other matters of general or local interest historically in Ontario;
- (g) the collection and preservation of information respecting the early settlers of Ontario, including pioneer experience, customs, mode of living, prices, wages, boundaries, areas cultivated, and home and social life;
- (h) the collection and preservation of the correspondence of settlers, documents in private hands relating to public and social affairs and reports of local events of historic interest in domestic and public life;
- (i) the conducting of research with a view to preserving the memory of pioneer settlers in Ontario and of their early exploits and the part taken by them in opening up and developing the Province. R.S.O. 1960, c. 21, s. 5.

Preservation  
of official  
documents

**6.** Subject to the regulations, no official document, paper, pamphlet or report in the possession of any department or branch of the public service or of the Assembly shall be destroyed or permanently removed without the knowledge and concurrence of the Archivist. R.S.O. 1960, c. 21, s. 6.

Certified  
copies

**7.** A copy of any original document in the custody of the Archivist, certified under his hand and seal to be a true copy, is *prima facie* evidence of the authenticity and correctness of such document. R.S.O. 1960, c. 21, s. 7.

Regulations

**8.** The Lieutenant Governor in Council may make regulations,

- (a) respecting the administration of the Department and the duties of the Archivist;
- (b) prescribing the matters that shall be transferred to the Department under this Act and extending or reducing the period that shall elapse before any such matters are transferred to the Department;
- (c) for the classification of archives and other matters in the Department and the preparation of proper calendars, catalogues and indexes for the purpose of making such archives and other matters accessible for purposes of official, scientific and historical research;

- (d) directing the manner in which documents, papers, pamphlets or reports in the office of any member of the Executive Council or in any department or branch of the public service or the Assembly shall be disposed of from time to time and the class of documents, papers, pamphlets or reports that shall be deemed to be public archives. R.S.O. 1960, c. 21, s. 8.

**9.** Nothing in this Act shall be taken or deemed to authorize the destruction or other disposition of any official document, paper, map, plan, report, memorandum or other matter in contravention of any order of the Assembly or of any express provision in any general or special Act of the Legislature. R.S.O. 1960, c. 21, s. 9.

Effect of  
this Act

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## CHAPTER 29

## The Art Gallery of Ontario Act

**1.** In this Act,Interpre-  
tation

- (a) “Board” means the board of trustees of the Gallery;
- (b) “Gallery” means the Art Gallery of Ontario. 1966, c. 8, s. 1; 1968, c. 5, s. 1.

**2.**—(1) The Art Gallery of Ontario is continued as a corporation without share capital and, subject to the provisions of this Act, has and may hold, possess and enjoy all the property, rights, powers and privileges that it now has, holds, possesses or enjoys, and, subject to the provisions of this Act, all by-laws, rules and regulations of The Art Gallery of Toronto now in force shall continue in force until amended or repealed. 1966, c. 8, s. 2 (1), *amended*.

Art Gallery  
of Ontario  
continued

(2) The Art Gallery of Ontario shall consist of the trustees for the time being of the Board. 1966, c. 8, s. 2 (2); 1968, c. 5, s. 2, *amended*.

Constitution  
of cor-  
poration**3.** The objects of the Gallery are,Objects of  
Gallery

- (a) to cultivate and advance the cause of the visual arts in Ontario;
- (b) to conduct programs of education in the origin, development, appreciation and techniques of the visual arts;
- (c) to collect and exhibit works of art and displays and to maintain and operate a gallery and related facilities as required for this purpose; and
- (d) to stimulate the interest of the public in matters undertaken by the Gallery. 1966, c. 8, s. 3.

**4.**—(1) The affairs of the Gallery shall be managed and controlled by a board of trustees consisting of twenty-seven trustees as follows:

Board of  
trustees

- (a) five persons appointed by The College of Founders of the Art Gallery of Ontario;
- (b) ten persons appointed by the membership of the Gallery;
- (c) two persons appointed by the council of the City of Toronto; and

- (d) ten other persons appointed by the Lieutenant Governor in Council.
- Term of office      (2) Each trustee shall hold office for one year and until his successor is appointed.
- Vacancies      (3) Where a vacancy occurs for any reason among the trustees, the vacancy shall be filled by a person appointed by the body that appointed the trustee whose office is vacant.
- President, vice-presidents      (4) The trustees shall annually elect from among themselves a president and one or more vice-presidents.
- Presiding officer      (5) The president shall preside at all meetings of the Board and, in his absence, a vice-president shall preside, and, in the absence of the president and the vice-presidents, the members present at a meeting shall elect one of themselves to preside. 1968, c. 5, s. 3.

Powers of Board

**5. The Board may,**

- (a) make by-laws, rules and regulations,
- (i) for the administration of its affairs, including the fixing of a quorum of the Board,
  - (ii) governing the use by the public of the facilities, property and equipment of the Gallery and requiring the payment of fees for the admission of the public or any class thereof to such facilities and property, and prescribing the amounts of such fees, and
  - (iii) providing for membership in the Gallery and prescribing the qualifications and terms of membership and the fees to be paid therefor, and providing for and regulating meetings of the members;
- (b) appoint a Director of the Gallery;
- (c) appoint, promote, transfer or remove all officers and staff as are necessary for the proper conduct of the affairs of the Gallery, but no person shall be appointed, promoted, transferred or removed as an officer or member of the staff except on the recommendation of the Director;
- (d) fix the number, duties, salaries, qualifications and tenure of office or employment and other emoluments of officers and members of the staff of the Gallery;
- (e) provide for the retirement and superannuation of persons mentioned in clauses *b* and *c*;

- (f) appoint by resolution a trustee or trustees of the Board, or any other person or persons, to execute on behalf of the Board any documents and other instruments in writing and to affix the corporate seal of the Gallery thereto;
- (g) appoint committees from the trustees of the Board and such other committees as are considered desirable, and confer upon any such committees authority to act for the Board with respect to any matter or classes of matters;
- (h) enter into agreements with any association or organization having objects similar to those of the Gallery;
- (i) enter into agreements with one or more universities, colleges or schools in areas consistent with the objects of the Gallery; and
- (j) generally conduct and manage the business and affairs of the Gallery. 1966, c. 8, s. 5; 1968, c. 5, s. 4.

**6.** The fiscal year of the Gallery shall extend from the 1st day of July of any year to the 30th day of June of the following year, but the Board may by by-law change the fiscal year of the Gallery. 1966, c. 8, s. 6; 1968, c. 5, s. 5. Fiscal year

**7.** All trusts, gifts, devises and bequests that have heretofore been or shall hereafter be made to or in favour of or intended for The Art Gallery of Toronto shall be held and enjoyed by the Art Gallery of Ontario. 1966, c. 8, s. 7. Trusts, bequests, etc.

**8.** The Gallery has, in addition to the powers, rights and privileges mentioned in section 26 of *The Interpretation Act*, power to purchase or otherwise acquire, take or receive by gift, bequest or devise and to hold and enjoy any estate or property whatsoever, whether real or personal, and to sell, grant, convey, mortgage, lease or otherwise dispose of the estate or property or any part thereof from time to time and as occasion may require, and to acquire other estate or property in addition thereto or in place thereof without licence in mortmain and without limitation as to the period of holding. 1966, c. 8, s. 8. Property R.S.O. 1970, c. 225

**9.** The real and personal property vested in the Gallery and any lands and premises leased to and occupied by the Gallery are not liable to taxation for provincial, municipal or school purposes, and are exempt from every description of taxation so long as they are actually used and occupied for the purposes of the Gallery. 1966, c. 8, s. 9. Tax exemption

Property  
of Gallery  
not liable  
to be expro-  
priated

**10.** Real property vested in the Gallery is not liable to be entered upon, used or taken by any corporation, except a municipal corporation, or by any person possessing the right of taking real property compulsorily for any purpose, and no power to expropriate real property conferred after the 8th day of July, 1966, shall extend to such property unless in the Act conferring the power it is made in express terms to apply thereto. 1966, c. 8, s. 10, *amended*.

Application  
of property

**11.** The property and the income, revenues, issues and profits of all property of the Gallery shall be applied solely to achieving the objects of the Gallery. 1966, c. 8, s. 11.

Borrowing  
powers

**12.** The Board may borrow money upon the credit of the Gallery, and may issue bonds, debentures or other securities of the Gallery, and may pledge or sell them for such sums or at such prices as may be considered expedient or necessary, and may hypothecate, mortgage or pledge all or any of the real or personal property, rights or powers of the Gallery to secure any bonds, debentures or other securities and any indebtedness of or money borrowed for the purposes of the Gallery. 1966, c. 8, s. 12.

Investment  
of funds

**13.** The funds of the Gallery not immediately required for its purposes and the proceeds of all property that come to the Gallery, subject to any trust or trusts affecting them, may be invested and reinvested in such investments as the Board considers proper. 1966, c. 8, s. 13.

Audit

**14.** The accounts and financial transactions of the Gallery shall be audited annually by an auditor or auditors appointed by the Board. 1966, c. 8, s. 14.

Annual  
report

**15.** Upon the request of the Lieutenant Governor in Council, the Board shall submit to him its annual report and shall submit such other reports as he may request from time to time. 1966, c. 8, s. 15.

Trust  
property

**16.** Nothing in this Act authorizes the Board to alienate, hypothecate, mortgage or pledge any real or personal property given, devised or bequeathed to it with a condition annexed to such gift that the property shall not be alienated, hypothecated, mortgaged or pledged. 1966, c. 8, s. 16.

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CHAPTER 30

The Artificial Insemination of Cattle Act

1. In this Act,

(a) “artificial insemination” means the depositing of semen in the genital tract of a domestic female animal of the bovine species by a means other than the natural method;

(b) “Commissioner” means the Live Stock Commissioner;

(c) “Committee” means The Artificial Insemination of Cattle Advisory Committee;

(d) “inseminating business” means a business in which one or more inseminators are engaged in artificial insemination;

(e) “inseminator” means a person who engages in the process of artificial insemination or the collection of semen for the purpose of artificial insemination;

(f) “Minister” means the Minister of Agriculture and Food;

(g) “regulations” means the regulations made under this Act;

(h) “semen-producing business” means a business that maintains a bull stud of at least five bulls for the production and sale of semen for the purpose of artificial insemination. 1962-63, c. 5, s. 1; 1966, c. 9, s. 1, amended.

Interpre-  
tation

2. The Commissioner is responsible to the Minister for the administration and enforcement of this Act. 1962-63, c. 5, s. 2.

Commis-  
sioner  
to be in  
charge

3.—(1) The Lieutenant Governor in Council may appoint a committee consisting of not fewer than three persons to be known as The Artificial Insemination of Cattle Advisory Committee.

Appoint-  
ment of  
Committee

(2) The Committee shall act in an advisory capacity to the Minister and the Commissioner.

Function of  
Committee

(3) The Lieutenant Governor in Council may designate one of the members as chairman and one member as vice-chairman.

Chairman  
and vice-  
chairman

(4) The members of the Committee shall receive such allow-  
ances and expenses as the Lieutenant Governor in Council  
determines. 1962-63, c. 5, s. 3.

Allowances  
to members



Inspectors

**4.** The Lieutenant Governor in Council may appoint inspectors to carry out and enforce this Act and the regulations. 1962-63, c. 5, s. 4.

Certificate of appointment

**5.—(1)** The production by the Commissioner or by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister.

Obstruction of Commissioner or inspector

(2) No person shall hinder or obstruct the Commissioner or an inspector in the course of his duties, or furnish him with false information, or refuse to furnish him with information. 1962-63, c. 5, s. 5.

Licensing

**6.** No person shall commence or continue to engage in an inseminating business or a semen-producing business without a licence therefor from the Commissioner. 1962-63, c. 5, s. 6.

Idem

**7.** No person shall commence or continue to act as an inseminator without a licence therefor from the Commissioner. 1962-63, c. 5, s. 7.

Territorial restrictions

**8.** A licence may be issued to engage in an inseminating business or to act as an inseminator throughout Ontario or in such part thereof as is determined by the Commissioner and specified in the licence. 1966, c. 9, s. 2.

Refusal to issue licence

**9.—(1)** The Commissioner, for any reason that he considers proper after a hearing, may refuse to issue a licence to any person to engage in an inseminating business or a semen-producing business or to act as an inseminator.

Appeal

(2) Any person to whom the Commissioner has refused to issue a licence under subsection 1 may appeal the decision of the Commissioner to the Minister, who may confirm the decision or require the Commissioner to issue the licence.

Cancellation, etc., of licence

(3) The Commissioner, after a hearing, may suspend, cancel or refuse to renew a licence of any person who contravenes any of the provisions of this Act or the regulations.

Appeal

(4) Any person whose licence was not renewed or was suspended or cancelled may appeal the decision of the Commissioner to the Minister, who may confirm the decision of the Commissioner or require the Commissioner to reinstate the licence. 1962-63, c. 5, s. 8.

Semen to be obtained from licensed producer

**10.—(1)** No person shall use semen for the purpose of artificial insemination other than semen purchased or otherwise acquired from a licensed semen-producing business.

(2) No person licensed to engage in a semen-producing business shall sell or otherwise dispose of semen for the purpose of artificial insemination other than semen produced in Ontario by a bull maintained by a licensed semen-producing business. Sale of semen

(3) Notwithstanding subsections 1 and 2, the Commissioner may authorize in writing, Exceptions

- (a) the use for the purpose of artificial insemination of semen that is not purchased or acquired from a licensed semen-producing business; or
- (b) the sale or disposition for the purpose of artificial insemination of semen that is not produced in Ontario by a bull maintained by a licensed semen-producing business. 1966, c. 9, s. 3.

**11.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the duties of the Committee;
- (b) providing for the issue, renewal, cancellation, suspension or revocation of or refusal to issue or renew licences, and prescribing the fees payable for licences or the renewal thereof;
- (c) prescribing forms and providing for their use;
- (d) prescribing requirements and minimum standards for any semen-producing business or any inseminating business;
- (e) prescribing the terms and conditions under which semen may be obtained from any semen-producing business;
- (f) prescribing the places at which and the conditions under which semen may be frozen and stored;
- (g) prescribing the qualifications and duties of inseminators;
- (h) prescribing the powers and duties of the Commissioner and inspectors;
- (i) providing for grants to semen-producing businesses and inseminating businesses and prescribing the terms and conditions upon which such grants may be paid;
- (j) requiring the keeping of prescribed books and records and the furnishing of prescribed information by the operators of semen-producing businesses and inseminating businesses and by inseminators;
- (k) providing for the blood-typing of bulls maintained by a semen-producing business and of bulls from which semen is obtained by a semen-producing business or an inseminating business;

- (l) prescribing health standards of bulls maintained by a semen-producing business and of bulls from which semen is obtained by an inseminating business or a semen-producing business;
- (m) governing the advertising of semen and the furnishing of information to the public by any person licensed under this Act;
- (n) exempting any person or class of persons from any or all of the provisions of this Act or the regulations;
- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 5, s. 10; 1966, c. 9, s. 4.

## Offences

**12.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 for a first offence, and to a fine of not less than \$200 and not more than \$500 for a subsequent offence. 1962-63, c. 5, s. 11.

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## CHAPTER 31

## The Arts Council Act

**1.** In this Act,Interpre-  
tation

- (a) “arts” means the arts of the theatre, literature, music, painting, sculpture, architecture or the graphic arts, and includes any other similar creative or interpretative activity;
- (b) “Council” means the Province of Ontario Council for the Arts;
- (c) “Minister” means the Minister of Education. 1962-63, c. 6, s. 1, *amended*.

**2.** The corporation known as the “Province of Ontario Council for the Arts”, consisting of a chairman, a vice-chairman and ten other members, is continued. 1962-63, c. 6, s. 2, *amended*.

Council  
continued

**3.** The Lieutenant Governor in Council shall appoint the chairman, the vice-chairman and the other members of the Council, each of whom shall hold office for a term of three years, except that, of those first appointed, four shall be appointed for a term of one year, four for two years, and four for three years. 1962-63, c. 6, s. 3.

Appoint-  
ment

**4.** The Chairman, the vice-chairman and the other members of the Council may be paid reasonable travelling and living expenses incurred by them while away from their ordinary places of residence on the business of the Council. 1962-63, c. 6, s. 4.

Allowances  
and expenses

**5.** A majority of the members of the Council constitutes a quorum whether or not a vacancy exists in the membership of the Council. 1962-63, c. 6, s. 5.

Quorum

**6.** It is the function of the Council and it has power to promote the study and enjoyment of and the production of works in the arts, and to such end may,

Objects  
and  
powers

- (a) assist, co-operate with and enlist the aid of organizations whose objects are similar to the objects of the Council;
- (b) provide through appropriate organizations or otherwise for grants, scholarships or loans to persons in Ontario for study or research in the arts in Ontario or elsewhere or to

persons in other provinces or territories of Canada or any other countries for study or research in the arts in Ontario;

- (c) make awards to persons in Ontario for outstanding accomplishments in the arts. 1962-63, c. 6, s. 6.

By-laws

**7.** The Council may make by-laws regulating its proceedings and generally for the conduct and management of its activities. 1962-63, c. 6, s. 7.

Meetings

**8.** The Council shall meet at least four times a year in the City of Toronto on such days as are fixed by the Council, and at such other times and places as the Council considers advisable. 1962-63, c. 6, s. 8.

Funds

**9.—(1)** The moneys for the purposes of the Council shall be paid out of the moneys appropriated therefor by the Legislature.

Idem

**(2)** The Council may acquire money, securities or other property, real or personal, by gift, devise, bequest or otherwise, and may expend, administer or dispose of any such money, securities or other property in the promotion of its objects, subject to the terms, if any, upon which such money, securities or other property were given, devised, bequeathed or otherwise made payable to the Council. 1962-63, c. 6, s. 9.

Investment committee

**10.—(1)** The Lieutenant Governor in Council may establish an investment committee composed of the chairman of the Council, a member of the Council designated by the Council and a person appointed by the Lieutenant Governor in Council.

Duties

**(2)** The investment committee shall aid and advise the Council with respect to the investment of any of its moneys that remain in its hands from time to time. 1962-63, c. 6, s. 10.

Audit

**11.** The accounts and financial transactions of the Council shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Council and to the Minister. 1962-63, c. 6, s. 11.

Annual report

**12.** The chairman of the Council shall annually file with the Minister a report upon the affairs of the Council, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1962-63, c. 6, s. 12.

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## CHAPTER 32

### The Assessment Act

#### 1. In this Act,

Interpre-  
tation

- (a) “assessment commissioner” means an assessment commissioner for a region as established by the regulations made under this Act;
- (b) “assessor” means the assessment commissioner and anyone acting under his authority;
- (c) “collector’s roll” means a roll prepared in accordance with *The Municipal Act*; R.S.O. 1970,  
c. 284
- (d) “corporation assessment” means the assessment of land liable to taxation, of which a corporation is the owner or tenant, and business assessment of a corporation, but does not include the assessment of land that is assessed to a person other than a corporation as a tenant;
- (e) “county” includes a district;
- (f) “county council” includes a provisional county council;
- (g) “county court” includes a district court;
- (h) “county judge” includes a district judge;
- (i) “Department” means the Department of Municipal Affairs;
- (j) “insurance company” means any company or fraternal society or other corporation transacting within Ontario any class of insurance to which *The Insurance Act* applies or is made to apply by any general or special Act of the Legislature; R.S.O. 1970,  
c. 284
- (k) “land”, “real property” and “real estate” include,
  - (i) land covered with water,
  - (ii) all trees and underwood growing upon land,
  - (iii) all mines, minerals, gas, oil, salt quarries and fossils in and under land,
  - (iv) all buildings, or any part of any building, and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land,
  - (v) all structures and fixtures erected or placed upon, in, over, under or affixed to a highway, lane or other public communication or water, but not the rolling stock of a transportation system;

R.S.O. 1970,  
c. 254

- (*l*) “loan company” means a loan corporation within the meaning of *The Loan and Trust Corporations Act*;
- (*m*) “locality” means a public school section, a separate school zone or a secondary school district that comprises or includes territory without municipal organization and includes the board of any of them;
- (*n*) “Minister” means the Minister of Municipal Affairs;
- (*o*) “municipality” means a city, town, village or township;
- (*p*) “person” includes a corporation, partnership, bridge authority, agent or trustee, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
- (*q*) “telephone company” includes a person or association of persons owning, controlling or operating a telephone system or line, but not a municipal corporation;
- (*r*) “tenant” includes an occupant and the person in possession other than the owner;
- (*s*) “trust company” means a trust company within the meaning of *The Loan and Trust Corporations Act*;
- (*t*) “voters’ list” means the municipal voters’ list prepared under *The Voters’ Lists Act*. 1968-69, c. 6, s. 1.

R.S.O. 1970,  
c. 485

#### Regulations

### 2.—(1) The Minister may make regulations,

- (*a*) establishing assessment areas and assessment regions for assessment purposes;
- (*b*) prescribing forms for the purposes of this Act;
- (*c*) prescribing standards and procedures to be used for the purpose of equalizing assessments under this Act;
- (*d*) prescribing the information and returns to be furnished by an assessment commissioner to any county or to any metropolitan or regional municipality. 1968-69, c. 6, s. 2 (1).

Assessment  
commis-  
sioner and  
acting  
assessment  
commis-  
sioner

(2) The Minister may appoint assessment commissioners for assessment regions and in the absence for any reason of any assessment commissioner, the Minister may appoint an acting assessment commissioner who, while so acting, has all the powers and duties of an assessment commissioner. 1968-69, c. 6, s. 2 (2); 1970, c. 57, s. 1 (1).

Notice of  
appoint-  
ment

(3) The appointment of an assessment commissioner shall be effective for the purposes of this Act upon the publication of a notice of his appointment in *The Ontario Gazette*. 1968-69, c. 6, s. 2 (3).

(4) An assessment commissioner appointed under subsection 2 shall be deemed for the purposes of this and every other Act to be the assessor and assessment commissioner of and for every municipality and locality in the assessment region for which he is appointed. 1968-69, c. 6, s. 2. (4); 1970, c. 57, s. 1 (2).

Deemed  
assessor

**3.** All real property in Ontario is liable to assessment and taxation, subject to the following exemptions from taxation:

Property  
assessable  
and taxable,  
exemptions

1. Lands or property belonging to Canada or any Province.  
Lands of  
Canada, etc.
2. Property held in trust for a band or body of Indians, but not if occupied by a person who is not a member of a band or body of Indians.  
Indian  
lands
3. Every place of worship and land used in connection therewith and every churchyard, cemetery or burying ground.  
Churches,  
etc.
  - (a) Where land is acquired for the purpose of a cemetery or burying ground but is not immediately required for such purpose, it is not entitled to exemption from taxation under this paragraph until it has been enclosed and actually and *bona fide* required, used and occupied for the interment of the dead.
  - (b) The exemption from taxation under this paragraph does not apply to lands rented or leased to a church or religious organization by any person other than another church or religious organization.
4. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a university, high school, public or separate school, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, but not if otherwise occupied.  
Public  
educational  
institutions
  - (a) The exemption from taxation under this paragraph does not apply to lands rented or leased to an educational institution mentioned in this paragraph by any person other than another such institution or a person already exempt from taxation in respect of the property rented or leased.
5. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for philanthropic or religious purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings are exempt only while actually used and occupied by such seminary.  
Philan-  
thropic or  
religious  
seminaries

Educational  
seminaries

6. The buildings and grounds not exceeding in the whole fifty acres of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for educational purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings are exempt only while actually used and occupied by such seminary, and such exemption does not extend to include any part of the lands of such a seminary that are used for farming or agricultural pursuits and are worked on shares with any other person, or if the annual or other crops, or any part thereof, from such lands are sold.

- (a) The exemption from taxation under this paragraph does not apply to lands rented or leased to a seminary of learning mentioned in this paragraph by any person other than another such seminary of learning or a person already exempt from taxation in respect of the property rented or leased.

Public  
hospitals  
R.S.O. 1970,  
c. 378

7. Every public hospital receiving aid under *The Public Hospitals Act* with the land attached thereto, but not land of a public hospital when occupied by any person as tenant or lessee.

- (a) Land owned and used by such a public hospital for farming purposes shall be deemed attached to the hospital within the meaning of this paragraph, notwithstanding that it is separated therefrom by a highway.

Highways,  
etc.

8. Every highway, lane or other public communication and every public square, but not when occupied by a tenant or lessee other than a public commission.

Municipal  
property

R.S.O. 1970,  
c. 118

9. Subject to section 35, the property belonging to any county or municipality or vested in or controlled by any public commission or local board as defined by *The Department of Municipal Affairs Act*, wherever situate and whether occupied for the purposes thereof or unoccupied but not when occupied by a tenant or lessee who is liable to taxation, except property of a harbour commission used for the parking of vehicles for which a fee is charged.

Boy Scouts  
and Girl  
Guides

10. Property owned, occupied and used solely and only by The Boy Scouts Association or The Canadian Girl Guides Association or by any provincial or local association or other local group in Ontario that is a member of either Association or is otherwise chartered or officially recognized by it.

Industrial  
farms, etc.

11. Every industrial farm, house of industry, house of refuge, institution for the reformation of offenders or for



the care of children, boys' and girls' home, or other similar institution conducted on philanthropic principles and not for the purpose of profit or gain, but only when the land is owned by the institution and occupied and used for the purposes of the institution.

12. Land of an incorporated charitable institution organized for the relief of the poor, The Canadian Red Cross Society, St. John Ambulance Association, or any similar incorporated institution conducted on philanthropic principles and not for the purpose of profit or gain, that is supported, in part at least, by public funds, but only when the land is owned by the institution and occupied and used for the purposes of the institution. Charitable institutions
13. The property of a children's aid society discharging the functions of a children's aid society under *The Child Welfare Act*, whether held in the name of the society or in the name of a trustee or otherwise, if used exclusively for the purposes of and in connection with the society. Children's aid societies  
R.S.O. 1970,  
c. 64
14. The property of every public library and other public institution, literary or scientific, and of every agricultural or horticultural society or association, to the extent of the actual occupation of such property for the purposes of the institution or society. Scientific or literary institutions, etc.
  - (a) For the purposes of this paragraph, an agricultural society under *The Agricultural Societies Act* shall be deemed to be in actual occupation where the property of the society is rented and the rent is applied solely for the purposes of the society. R.S.O. 1970,  
c. 15
15. Land acquired by a society or association by reason of its being the site of any battle fought in any war, and maintained, preserved and kept open to the public in order to promote the spirit of patriotism. Battle sites
16. The land of every company formed for the erection of exhibition buildings to the extent to which the council of the municipality in which such land is situate consents that it shall be exempt. Exhibition buildings of companies
17. All machinery and equipment used for manufacturing or farming purposes or for the purposes of a concentrator or smelter of ore or metals, including the foundations on which they rest, but not including machinery and equipment to the extent that it is used, intended or required for lighting, heating or other building purposes or machinery owned, operated or used by a transportation system or by a person having the right, authority or permission to construct, maintain or operate within Ontario in, under, above, on or through any highway, Machinery



lane or other public communication, public place or public water, any structure or other thing, for the purposes of a bridge or transportation system, or for the purpose of conducting steam, heat, water, gas, oil, electricity or any property, substance or product capable of transportation, transmission or conveyance for the supply of water, light, heat, power or other service.

Forestry  
purposes

18. One acre used for forestry purposes for every ten acres of the farm in one municipality under a single ownership but not more than twenty acres in all, and, where the total acreage consists of more than one separately assessed parcel, the assessor shall treat all such parcels as one parcel for the purpose of determining the exemptions under this paragraph and shall apportion the exemption to each parcel in the ratio of the acreage of each parcel used or partly used for forestry purposes to the total acreage of all parcels used or partly used for forestry purposes.

Mineral  
land and  
minerals

19. The buildings, plant and machinery in, on or under mineral land, and used mainly for obtaining minerals from the ground, and the minerals in, on, or under such land other than diatomaceous earth, limestone, marl, peat, clay, building stone or stone for ornamental or decorative purposes or non-auriferous sand or gravel, but not including a concentrator or smelter of ore or metals. 1968-69, c. 6, s. 3.

Exemption  
of religious  
institutions

4. The council of any local municipality may pass by-laws exempting from taxes, other than school taxes and local improvement rates, the land of any religious institution named in the by-law, provided that the land is owned by the institution and occupied and used solely for recreational purposes, on such conditions as may be set out in the by-law. 1968-69, c. 6, s. 4.

Where land  
ceases to be  
used for  
forestry  
purposes

5. The council of a town, village or township may by by-law provide that, if any part of a farm exempted under paragraph 18 of section 3 ceases to be used for forestry purposes so as not to come within the purview of such paragraph, the assessor shall so report to the clerk and that the clerk shall forthwith amend the collector's roll by inserting therein,

- (a) the rates or taxes with which the farm would have been chargeable for the preceding three years if such part of the farm had not been exempt; or
- (b) such portion of such rates or taxes as the by-law may provide or the council may by resolution deem proper,

and such rates or taxes or portion thereof are collectable in accordance with such amended roll. 1968-69, c. 6, s. 5.

**6.** The council of any local municipality may pass by-laws exempting from taxes, other than school taxes and local improvement rates, the land belonging to and vested in the Navy League of Canada under such conditions as may be set out in the by-law, so long as the land is occupied and used solely for the purposes of carrying out the activities of the Ontario division of the Navy League. 1968-69, c. 6, s. 6.

Exemption  
of Navy  
League

**7.—(1)** Irrespective of any assessment of land under this Act, every person occupying or using land for the purpose of, or in connection with, any business mentioned or described in this section, shall be assessed for a sum to be called “business assessment” to be computed by reference to the assessed value of the land so occupied or used by him as follows:

Business  
assessment

- (a) Every person carrying on the business of a distiller for a sum equal to 140 per cent of the assessed value of the land occupied or used by him for such business exclusive of any portion of such land occupied or used by him for the distilling of alcohol solely for industrial purposes and for a sum equal to 75 per cent of the assessed value as to such last-mentioned portion.
- (b) Every person carrying on the business of a wholesale merchant, brewer, insurance company, loan company, trust company, express company carrying on business on or in connection with a railway or steamboats or other vessels, land company, loaning land corporation, bank, banker or any other financial business for a sum equal to 75 per cent of the assessed value.
- (c) Every person carrying on the business of selling or distributing goods, wares and merchandise through a chain of more than five retail stores or shops in Ontario, directly or indirectly owned, controlled or operated by him, for a sum equal to 75 per cent of the assessed value of the land occupied or used by him in such business for a distribution premises, storage or warehouse for such goods, wares and merchandise, or for an office used in connection with such business.
- (d) Every person carrying on the business of a manufacturer, including the business of a flour miller, maltster and a concentrator or smelter of ore or metals, for a sum equal to 60 per cent of the assessed value, provided that a manufacturer is not liable to business assessment as a wholesale merchant by reason of his carrying on the business of selling by wholesale the goods of his own manufacture on such land, and provided further that when a person occupies or uses land for the purpose of or in connection with the business of a concentrator or smelter of ore or metals that is also used for obtaining minerals from the ground, the assessor shall determine

the land that is reasonably necessary for the purposes of such concentrator or smelter of ore or metals.

- (e) Every person carrying on the business of selling goods or services through a chain of more than five stores, shops or outlets in Ontario, except a hotel or motel, for a sum equal to,
  - (i) 40 per cent of the assessed value in the year 1970,
  - (ii) 45 per cent of the assessed value in the year 1971,
  - (iii) 50 per cent of the assessed value in the year 1972 and thereafter.
- (f) Every person,
  - (i) practising or carrying on the business of a barrister, solicitor, notary public, conveyancer, physician, surgeon, oculist, optometrist, ophthalmic dispenser, physiotherapist, podiatrist, aurist, dentist or veterinarian, or a civil, mining, consulting, mechanical or electrical engineer, surveyor, contractor, builder, advertising agent, private investigator, employment agent, accountant, assignee, auditor, osteopath, chiropractor, massagist, architect and every person carrying on a financial or commercial business or any other business as agent, or
  - (ii) carrying on the business of operating a radio or television broadcasting station, or
  - (iii) carrying on business as the publisher of a newspaper, or a photographer, lithographer, printer or publisher, or
  - (iv) carrying on the business of a department store,for a sum equal to 50 per cent of the assessed value.
- (g) Every person carrying on the business of,
  - (i) a telegraph or telephone company, or
  - (ii) a transportation system, other than one for the transportation or transmission or distribution by pipe line of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or liquefied petroleum gas or any mixture or combination of the foregoing, or
  - (iii) the transmission of water or of steam, heat or electricity for the purposes of light, heat or power,for a sum equal to 30 per cent of the assessed value of the land, except a highway, lane or other public communication or public place or water or private right of way, occupied or used by such person, exclusive of the value of any machinery, plant or appliances erected or placed upon, in, over, under or affixed to such land.

- (h) Every person carrying on the business of transportation, transmitting or distributing by pipe line crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or liquefied petroleum gas or any mixture or combination of the foregoing, for a sum equal to 30 per cent of the assessed value of the land excluding any pipe line liable to assessment under section 32 or 33.
- (i) Every person carrying on the business of a car park, for a sum equal to 25 per cent of the assessed value.
- (j) Every person carrying on any business not specially mentioned before in this section, for a sum equal to 30 per cent of the assessed value.

(2) Irrespective of any assessment of land or of any business assessment under this Act, every person who is liable to be assessed for business assessment and who provides without charge parking facilities for the vehicles of his employees shall be assessed for a sum (to be called business assessment) equal to 25 per cent of the assessed value of the land so used for employee parking that is reasonably necessary for such purpose as determined by the assessor, but such person shall not otherwise be assessable for business assessment in respect of such land.

Employee  
parking lots

(3) Irrespective of any assessment of land or of any business assessment under this Act, every person carrying on business in one of a group of premises in which business is carried on where land for parking is made available by the owner of the land, or by anyone claiming under him, without charge to customers of or persons having business in one of such premises in such group in common with the customers of or persons having business with the occupants of other such premises in the group shall be assessed for a sum (to be called business assessment) equal to 25 per cent of the assessed value of that portion of the land made available for parking which is in the proportion to the whole of the land so made available that the assessed value of his premises is to the total assessed value of the premises occupied by the group exclusive of the land made available for parking.

Shared  
parking lots

(4) Every person assessed for business assessment is liable for the payment of tax thereon and the tax assessed does not constitute a charge upon the land.

Tax not  
a charge  
on land

(5) Where a manufacturer also carries on the business of a transportation system for the transportation or transmission or distribution by pipe line of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or any mixture or combination of the foregoing, he shall not be assessed for business assessment as a manufacturer in respect of such transportation system.

Transportation of  
gas, etc.,  
by pipe  
line by  
manufacturer



Effect of  
general  
words

(6) Wherever in this section general words are used for the purpose of including any business that is not expressly mentioned, such general words shall be construed as including any business not expressly mentioned, whether or not such business is of the same kind as or of a different kind from those expressly mentioned.

Persons  
carrying on  
more than  
one class of  
business

(7) Subject to subsection 8, no person shall be assessed in respect of the same premises under more than one of the clauses of subsection 1, and, where any person carries on more than one of the kinds of business mentioned in that subsection on the same premises, he shall be assessed by reference to the assessed value of the whole of the premises under that one of those clauses in which is included the kind of business that is the chief or preponderating business of those so carried on by him in or upon such premises.

Retailing  
by manu-  
facturer

(8) Where a manufacturer also carries on the business of a retail merchant, he shall be assessed as a retail merchant in respect of any premises or of any portion of any premises that are occupied and used by him solely and only for the purpose of such business.

Where  
land used  
partly for  
business  
and for  
residence

(9) Where any person mentioned in subsection 1 occupies or uses land partly for the purpose of his business and partly for the purpose of a residence, he shall be assessed under this section only in respect of the part occupied mainly for the purpose of his business.

Farmers  
etc.

(10) No person occupying or using land as a rooming house, apartment house, farm, market garden, nursery or apiary or for the raising of animals for the production of fur is liable to business assessment in respect of such land.

(a) In this subsection, "rooming house" means any house or building or portion thereof in which the proprietor supplies lodging, for hire or gain, to other persons with or without meals in rooms furnished by the proprietor with necessary furnishings, and does not include a hotel, as defined in *The Hotel Registration of Guests Act*.

R.S.O. 1970,  
c. 212

Minimum  
assessment

(11) Where the amount of the assessment of any person assessable under this section would under the foregoing provisions be less than \$100 he shall be assessed for the sum of \$100. 1968-69, c. 6, s. 7.

Assessment  
of telephone  
companies  
on gross  
receipts in  
cities, towns,  
villages and  
police  
villages

**8.—**(1) Every telephone company carrying on business in a city, town, village or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 100 per cent of the amount of the gross receipts from all telephone and other equipment belonging to the company located within the municipal limits of the city, town, village or police village, for the year ending on the 31st day of December next preceding the assessment.



(2) To remove doubts, it is hereby declared that the receipts of a telephone company from long distance business or calls in a municipality or police village are and always have been liable to assessment under subsection 1 in such municipality or police village.

Assessment of receipts from long distance business

(3) Subject to subsection 4, every telephone company shall be assessed in every township for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use by the company on the 31st day of December next preceding the assessment, at the rate of \$135 per mile and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use by the company on the 31st day of December next preceding the assessment, at the rate of \$7.50 per mile.

Assessment of telephone companies on mileage in townships

(4) Where a telephone company does not operate generally throughout Ontario and is not authorized by statute to carry on business throughout Ontario, it shall be assessed in every township for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use by the company on the 31st day of December next preceding the assessment, at the rate of \$50 per mile and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use by the company on the 31st day of December next preceding the assessment, at the rate of \$7.50 per mile.

Assessment of local telephone companies

(5) In computing the length of telephone circuits placed or strung on poles or other structures or in conduits in townships,

Computation of length of circuits

- (a) the portion of a circuit within a police village shall not be included;
- (b) a circuit that does not exceed twenty-five miles in length that is not used as a connecting circuit between two or more central exchange switchboards shall not be included;
- (c) every circuit regardless of its length that connects two or more central exchange switchboards shall be included.

(6) In a township, the land of a telephone company on which any building is erected or placed, and the building itself, are liable to assessment.

Telephone company assessable for land built on in townships

(7) Every telegraph company carrying on business in a city, town, village or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 100 per cent of the amount of the gross receipts belonging to the company in such city, town, village or police village from the business of the company for the year ending on the 31st day of December next preceding the assessment.

Assessment of telegraph companies on gross receipts in cities, towns, villages and police villages

Assessment of mileage in townships

(8) In every township, there shall be assessed against every such telegraph company a sum equal to \$40 for every mile of the length of one wire placed or strung on the poles or other structures or in conduits operated or used by the company in the township and in use on the 31st day of December next preceding the assessment and a sum equal to \$5 per mile for each additional wire so placed or strung on the 31st day of December next preceding the assessment.

Telegraph company assessable for land built on in township

(9) In a township, the land of a telegraph company on which any building is erected or placed, and the building itself, are liable to assessment.

Telegraph and telephone plant of railways

(10) The telephone and telegraph plant, poles and wires of a steam railway company that are used exclusively in the running of trains or for any other purposes of a steam railway and not for commercial purposes are exempt from assessment, but each of such wires when used for commercial purposes shall be assessed at \$5 per mile in the manner hereinbefore mentioned.

Wires in police villages and branch and loop lines excluded

(11) In the computation of the length of telegraph wires and additional wires for assessment in a township, the wires placed or strung within the area of any police village and the wires of all branch and loop lines that do not exceed twenty-five miles in length shall not be included.

Measurement of additional wires

(12) In the measurement of such additional wires or circuits, the length of every telegraph wire and every telephone circuit placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages, shall be computed.

Assessment exemptions of companies

(13) Every company assessed as provided in this section is exempt from assessment in any municipality in respect of all machinery, plant and appliances wherever situate, and is exempt from assessment in cities, towns, villages and police villages in respect of all structures placed on, over, under or affixed to any highway, lane or other public communication, public place or water.

Poles and wires on township boundaries

(14) Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on a boundary line between two townships or so near thereto that they are in some places on one side and in other places on the other side of the boundary line or are placed on a road that lies between two townships, although it may deviate so as in some places to be wholly or partly within either of them, the company shall be assessed in each township for one-half of the amount assessable against it under subsection 3, 4, 8 or 10, as the case may be, in both the townships taken together.

(15) Notwithstanding subsection 13, the assessment of a telephone company or telegraph company under this section shall be deemed to be real property assessment, and the taxes payable by any such company are a lien upon all the lands of the company in the municipality. 1968-69, c. 6, s. 8.

Real  
property  
assessment

9.—(1) Every telegraph and telephone company doing business in Ontario shall, on or before the 1st day of March in each year, transmit to the assessment commissioner of each municipality in which the company does business, a statement in writing of the amount of the gross receipts of the company in such municipality for the year ending on the 31st day of December next preceding the assessment.

Returns  
by telegraph  
and  
telephone  
companies

(2) Every telegraph and telephone company doing business in Ontario shall, on or before the 1st day of March in each year, transmit to the assessment commissioner of every township in which the company does business, a statement in writing showing,

Idem

- (a) the length in miles of one wire or of one circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of adjoining townships) in use by the company in such township on the 31st day of December next preceding the assessment, and the length in miles of additional wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of adjoining townships) whether or not in use by the company in such township on the 31st day of December next preceding the assessment; and
- (b) the length in miles of one exempt wire or of one exempt circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of adjoining townships) in use by the company in such township on the 31st day of December next preceding the assessment, and the length in miles of additional exempt wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of adjoining townships) whether or not in use by the company in such township on the 31st day of December next preceding the assessment. 1968-69, c. 6, s. 9.

10.—(1) Where in a township the density of population is not less than 150 of population to 500 acres, the council thereof may, subject to the approval of the Department, by by-law define such areas and declare them to be police villages for the purposes of section 8, and each year thereafter so long as the by-law remains

Power of  
township  
to assess  
on basis  
of gross  
receipts

in force every telephone and telegraph company carrying on business in the areas shall be assessed therein on a gross receipts basis in the manner provided in section 8, except that in such case the company shall be assessed for 100 per cent of the amount of the gross receipts from all equipment belonging to the company located within the areas.

Map of  
areas to be  
attached

(2) Every by-law passed under subsection 1 shall have attached thereto a map showing clearly the boundaries of the areas.

First state-  
ment of  
company  
based  
on gross  
receipts

(3) Where a by-law is passed under subsection 1, every telephone and telegraph company required under section 9 to transmit a statement to the assessment commissioner shall keep records of the gross receipts earned by the company on and after the 1st day of January in the year following that in which the by-law was approved by the Department, and the statement required to be transmitted to the assessment commissioner by the 1st day of March in the second year following that in which the by-law was approved shall be based on the gross receipts earned by the company in the year following that in which the by-law was approved.

Duty of  
clerk

(4) Upon the passing, amending or repealing of a by-law under subsection 1, the clerk shall forthwith transmit a copy thereof to the assessment commissioner and to every telephone and telegraph company carrying on business in the areas defined in the by-law. 1968-69, c. 6, s. 10.

Limit of  
taxation  
of gross  
receipts of a  
telephone  
company

**11.** Notwithstanding the other provisions of this Act or any other general or special Act, the total amount of the taxes and rates levied and imposed in any year in respect of the gross receipts of a telephone company in a municipality shall not exceed an amount equal to 5 per cent of the total of the gross receipts of the company from its business in the municipality for the year ending on the 31st day of December next preceding the assessment. 1968-69, c. 6, s. 11.

Assessment  
of easements

**12.—(1)** Where an easement is appurtenant to any land, it shall be assessed in connection with and as part of the land at the added value it gives to the land as the dominant tenement, and the assessment of the land that, as the servient tenement, is subject to the easement shall be reduced accordingly.

Lanes used  
as right of  
way

(2) Where land is laid out and used as a lane and is subject to such rights of way as prevent any beneficial use of it by the owner, it shall not be assessed separately, but its value shall be apportioned among the various parcels to which the right of way is appurtenant and shall be included in the assessment of such parcels and in such cases the assessor shall return the land so used as "Lane not assessed".



(3) A restrictive covenant running with the land shall be deemed to be an easement within the meaning of this section. 1968-69, c. 6, s. 12.

Restrictive  
covenant

**13.**—(1) An assessor, and any assistant of and designated by an assessor, upon producing proper identification, shall at all reasonable times and upon reasonable request be given free access to all land and to all parts of every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, for the purpose of making a proper assessment thereof or of making a proper business assessment in respect thereof.

Right of  
access

(2) Every adult person present on land when any person referred to in subsection 1 visits the land in the performance of his duties shall upon request give to such person all the information in his knowledge that will assist such person to make a proper assessment of the land and every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, to make a proper business assessment in respect thereof, and to obtain the information he requires with respect to any person whose name he is required to enter on the assessment roll or in the census register. 1968-69, c. 6, s. 13.

Information

**14.**—(1) Where an assessor has visited land for the purpose of making a proper assessment thereof or a proper business assessment in respect thereof or census and has been unable to obtain all information necessary for such purpose, he may deliver or cause to be delivered or mailed to the address of any person, whether resident in the municipality or not, who is or may be assessed in respect of the land, a questionnaire or questionnaires in writing demanding information as prescribed by the regulations.

Where  
assessor  
unable to  
obtain  
information  
by visit

(2) Every person to whom any questionnaire is delivered or mailed shall, within ten days after the delivery or mailing, enter thereon in the proper places all the information required thereby that is within his knowledge and sign and deliver or mail the questionnaires to the assessment commissioner or assessor whose name and address appear on the questionnaire.

Return of  
question-  
naire

(3) Except as provided in this or any other section of this Act, no person may be required by an assessment commissioner, assessor or other person to furnish information with respect to the assessment of land, business or persons or with respect to the census. 1968-69, c. 6, s. 14.

Proviso

**15.** The assessor is not bound by any statement delivered under section 13 or 14 nor does it excuse him from making due inquiry to ascertain its correctness, and, notwithstanding any such statement, the assessor may assess every person for such amount as he believes to be just and correct, and may omit his

Assessor  
not bound  
by returns



name or any land that he claims to own or occupy, if the assessor has reason to believe that he is not entitled to be placed on the roll or to be assessed for such land. 1968-69, c. 6, s. 15.

Offence  
for not  
furnishing  
information

**16.**—(1) Every person who, having been required to furnish information under section 13 or 14 makes default in delivering or furnishing it and any corporation that makes default in delivering the statement mentioned in section 9 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 and an additional fine of \$10 for each day during which default continues.

for false  
statement

(2) Every person who knowingly states anything false in any such statement or in furnishing such information is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

for  
obstructing  
assessor, etc.

(3) Every person who wilfully obstructs or interferes with any person referred to in subsection 1 of section 13 in the performance of any of his duties or the exercise of his rights, powers and privileges under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1968-69, c. 6, s. 16.

Assessment  
roll content

**17.**—(1) The assessment commissioner shall cause to be prepared an assessment roll for each municipality in the region for which he is the assessment commissioner and, in such preparation, shall cause to be set down the following particulars:

1. A description of the property sufficient to identify it.
2. The name and surnames, in full, if they can be ascertained, of all persons who are liable to assessment in the municipality whether they are or are not resident in the municipality.
3. The amount assessable against each person opposite his name and where there is both owner and tenant, both names shall be entered on the roll.
4. Year of birth of every person entered on the roll.
5. Whether the person is a Canadian citizen, British subject, or an alien by inserting opposite his name the letters "C", "B" or "A", as the case may be.
6. Whether the person is an owner or tenant by inserting opposite his name the letter "O" or "T", as the case may be, and where the person is a "farmer's son", "farmer's daughter" or "farmer's sister", there shall also be similarly entered the letters "FS", "F D" or "S F", and, in the case of a person who is entitled to be a municipal elector by reason of being the husband or wife of the

person rated or entitled to be rated for land as provided by *The Municipal Act* or by reason of being the wife of a farmer's son, or a farmer's daughter or farmer's sister, there shall also be entered the letters "M F" meaning that such person is entitled to vote at municipal elections but is not to be counted for the purpose of determining representation in the county council, and all such names shall be numbered on the roll.

R.S.O. 1970,  
c. 284

7. Occupation of every person entered on the roll.
8. Number of acres, or other measures showing the extent of the land.
9. Market value of the parcel of land.
10. Amount of taxable land.
11. Value of the land if liable for school rates only.
12. Value of land exempt from taxation.
13. Assessment for real property under clauses *a* and *c* of subsection 2 of section 302 of *The Municipal Act*.
14. Percentage applied in determining the amount of business assessment under section 7.
15. Residential assessment.
16. Professional and commercial assessment.
17. Manufacturing and industrial assessment.
18. Farm assessment.
19. Religion, if Roman Catholic.
20. Whether a public or separate school supporter, by inserting the letter "P" or "S" as the case may be.
21. Corporations assessment, by inserting the letter "C" where applicable. 1968-69, c. 6, s. 17 (1); 1970, c. 57, s. 2 (1, 2).

(2) The following provisions shall be observed in the preparation of the assessment roll: Preparation

1. No assessment shall be made against the name of any deceased person, but, when the assessor is unable to ascertain the name of the person who should be assessed in lieu of the deceased person, he may enter, instead of such name, the words "Representatives of A.B., deceased" (*giving the name of the deceased person*).
2. Each subdivision shall be assessed separately, and every parcel of land (whether a whole subdivision or a portion thereof, or the whole or a portion of a building thereon)

in the separate occupation of any person shall be separately assessed; provided that no portion of any building used or intended to be used as a residence shall be separately assessed unless it is a domestic establishment of two or more rooms in which the occupants usually sleep and prepare and serve meals.

3. Where a block of vacant land subdivided into lots is owned by the same person, it may be entered on the roll as so many acres of the original block or lot if the numbers and description of the lots into which it is subdivided are also entered on the roll. 1968-69, c. 6, s. 17 (2).

Mechanical  
preparation

(3) To facilitate the use of mechanical methods of preparing the roll, and without limiting the generality of the foregoing,

- (a) in the case of a Canadian citizen or British subject, the letters "C", "B" may be omitted and such omission signifies that the person is entered on the roll as a Canadian citizen or British subject;
- (b) in the case of a public school supporter, the letter "P" may be omitted, and such omission signifies that the person is entered on the roll as a public school supporter;
- (c) in the case of an owner, the letter "O" may be omitted, and such omission signifies that the person is entered on the roll as an owner. 1968-69, c. 6, s. 17 (3); 1970, c. 57, s. 2 (3).

Interpre-  
tation

**13.—**(1) In this section,

- (a) "farm" means not less than twenty acres of land in the actual occupation of the owner of it;
- (b) "father" includes stepfather;
- (c) "mother" includes stepmother;
- (d) "owner" means a person who is owner in his or her own right, or a person whose wife is owner in her own right, of any estate for life or any greater estate legal or equitable, or of a leasehold estate, the term of which is not less than five years, except where the person is a widow and in that case "owner" means "owner in her own right" of such an estate;
- (e) "son", "sons", "farmer's son" and "farmers' sons" means son or sons, stepson or stepsons of the full age of twenty-one years not otherwise entitled to be entered on the voters' list;
- (f) "daughter", "daughters", "farmer's daughter" and "farmers' daughters" means daughter or daughters, stepdaughter or stepdaughters of the full age of twenty-one years not otherwise entitled to be entered on the voters' list;

- (g) "farmer's sister" means a sister of the full age of twenty-one years, not otherwise entitled to be entered on the voters' list, who is the sister of the owner of a farm who is unmarried or is a widower, and has resided on the farm with such owner for the twelve months next preceding and is residing thereon at the date fixed for beginning to make the assessment roll.

(2) Subject to subsections 3 to 10, where a father or mother is the owner of a farm, his or her sons and daughters who have resided on the farm for the twelve months next preceding and are residing thereon at the date fixed for beginning to make the assessment roll have the same right to be entered on the roll as if they were jointly assessed for the farm with the father or mother, but they shall be entered on the roll as farmers' sons, or farmers' daughters, as the case may be.

Farmers' sons and daughters

(3) Where the amount at which the farm is assessed is insufficient, if equally divided between a father or mother and son or daughter, and they were jointly assessed for it, to qualify both to vote at a municipal election, the son or daughter is not entitled to be entered on the roll in respect of the farm.

When son or daughter not entitled to be entered

(4) If the father is living and there are more sons than one resident as provided in subsection 2, and the farm is not assessed for an amount sufficient, if equally divided between them, to qualify the father and all such sons to vote at a municipal election, so many of the sons in the order of their seniority, beginning with the eldest, as the amount at which the farm is assessed, if equally divided between them and the father, would be sufficient to qualify, are entitled to be entered on the roll as farmers' sons.

When assessment insufficient to qualify all sons

(5) If the father is dead and the mother is a widow and the farm is not assessed for an amount sufficient, if equally divided between them, to qualify all of them to vote at a municipal election, so many of the sons, in the order mentioned in subsection 4, as the amount at which the farm is assessed, if equally divided between the mother and them, would be sufficient to qualify, are entitled to be entered on the roll as farmers' sons.

Idem

(6) Where a father or mother has no sons, the daughters, if any, for the purposes of subsection 4 or 5 are entitled to be entered on the roll as farmers' daughters in the same manner and to the same extent as the sons, if there had been sons, would have been entitled to be entered on the roll.

Right of daughter to vote where no sons

(7) Where a father or mother has sons and daughters and the farm is assessed at an amount more than sufficient to entitle the father or mother and all the sons to be entered on the roll, but is not assessed for an amount sufficient to qualify also all such daughters to vote at a municipal election, so many of the daughters in the order mentioned for sons in subsection 4 as the

Right of daughter to vote where sons also vote



amount at which the farm is assessed, if equally divided between the father, mother and the sons and daughters, would be sufficient to qualify, are entitled to be entered on the roll as farmers' daughters.

Right of  
farmer's  
sister to  
vote

(8) A farmer's sister has the same right to be entered on the roll as if she were jointly assessed for the farm with the owner, but she shall not be entered thereon as a farmer's sister unless the amount at which the farm is assessed is sufficient, if equally divided between them and they were jointly assessed for it, to qualify both to vote at a municipal election.

Right of  
more than  
one farmer's  
sister to  
vote

(9) In case more than one farmer's sister has the right under subsection 8 to be entered on the roll with the owner, and the farm is not assessed for an amount sufficient to qualify all such farmer's sisters to vote at a municipal election, so many of the farmer's sisters in the order mentioned for sons in subsection 4 as the amount at which the farm is assessed, if equally divided between the owner and the farmer's sisters, would be sufficient to qualify, are entitled to be entered on the roll as farmer's sisters.

Occasional  
absence not  
to disqualify

(10) Occasional or temporary absence from the farm for a time or times not exceeding in the whole six of the twelve months does not disentitle a farmer's son, farmer's daughter or farmer's sister to be entered on the roll. 1968-69, c. 6, s. 18.

Assessor to  
be guided by  
index book  
R.S.O. 1970,  
c. 430

**19.** Where the index book required by section 60 of *The Separate Schools Act* is prepared, an assessor shall be guided thereby in ascertaining who have given the notices that are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax. 1968-69, c. 6, s. 19.

Evidence  
on which  
assessor to  
enter  
persons as  
separate  
school  
supporters

**20.** An assessor, where the entry in the index book mentioned in section 19 does not show a ratepayer to be a supporter of separate schools, shall accept the statement of the ratepayer, or a statement made on his behalf and by his authority, and not otherwise, that he is a Roman Catholic, as sufficient *prima facie* evidence for placing such person on the assessment roll as a separate school supporter, or if the assessor knows personally any ratepayer to be a Roman Catholic, this is also sufficient for placing such person on the assessment roll as a separate school supporter. 1968-69, c. 6, s. 20.

School  
support

**21.—(1)** The Assessment Review Court shall hear and determine all complaints with regard to persons alleged to be wrongfully placed upon or omitted from the roll as public school supporters or as Roman Catholic separate school supporters, and any person so complaining or any ratepayer or school board may give notice in writing to the person whose name appears on the assessment notice as the person giving the notice on behalf of the municipal-



ity of such complaint, and the provisions of this Act as to giving notice of complaints against the assessment roll and proceedings for the trial thereof apply to complaints under this section except that the notice of complaint may be given at any time on or before the 14th day of October or the last day for appealing to the court whichever is the later.

(2) Liability in respect of public or separate school support shall be determined in accordance with the circumstances existing at the time the notice of complaint was given.

Deter-  
mination  
of school  
support,  
time for

(3) Notwithstanding subsection 1, if the notice of complaint is received more than thirty days before the last day for giving the notice under subsection 1, the person to whom the notice has been given under subsection 1 shall prepare and deliver to the clerk of the municipality, on or before the last day for giving the notice of complaint, a revised assessment notice showing liability in accordance with the circumstances existing at the time the notice of complaint was given, which notice shall be sent by the clerk, with the notice of the sitting of the court to consider the complaint, to the owner or tenant to be assessed, to the owner or tenant appearing on the assessment roll and to the complainant, and the court shall amend the roll in accordance with such revised assessment notice unless one of the parties concerned or his agent appears at the hearing and objects thereto, in which event the court shall determine the matter as provided in subsection 1. 1968-69, c. 6, s. 21.

Revised  
assessment  
notice

**22.**—(1) In the case of a municipality in which there are supporters of a Roman Catholic separate school therein, or contiguous thereto, there shall be printed in conspicuous characters, or written across or on the assessor's notice to every ratepayer provided for by section 40 in addition to the proper entry heretofore required to be made in the column respecting the school tax, the following words: "*You are assessed as a Separate School supporter*" or "*You are assessed as a Public School supporter*", as the case may be; or these words may be added to the notice to the ratepayer.

Notice to be  
given of  
assessment  
as public or  
separate  
school  
supporter

(2) Where a ratepayer, who was in the next preceding year assessed as a public school supporter, is being assessed as a separate school supporter or where a ratepayer, who was in the next preceding year assessed as a separate school supporter, is being assessed as a public school supporter, it is the duty of the assessor to give, in addition to all other notices, a written or printed notice to the ratepayer that the change is being made. 1968-69, c. 6, s. 22.

Notice to be  
given of  
change in  
assessment  
as public or  
separate  
school  
supporter

**23.** The assessment commissioner shall in each year, on or before the 31st day of October, cause a census to be taken of the inhabitants of each municipality and locality in his region, which

Census

shall include such information as may be prescribed by the Lieutenant Governor in Council, and the census for each municipality and locality shall be delivered by the assessment commissioner to the clerk of the municipality or the secretary of each school board in the locality on or before the 1st day of November of the year in which the census is taken. 1970, c. 57, s. 3.

Owner-  
occupied  
land

**24.**—(1) Land occupied by the owner shall be assessed against him.

Unoccupied  
land of  
resident

(2) Unoccupied land the owner of which is resident in the municipality shall be assessed against him.

Land of  
resident  
occupied by  
tenant

(3) Land owned by a resident in the municipality and occupied by any person other than the owner shall be assessed against the owner and the tenant.

Occupied  
land owned  
by non-  
resident

(4) Occupied land owned by a person who is not a resident in the municipality shall be assessed against the owner, if known, and against the tenant.

Unoccupied  
land of non-  
residents

(5) Unoccupied land owned by non-residents shall be assessed in the same manner as the land of residents and, where the name of the owner cannot be ascertained, the assessor shall insert the word "non-resident" in the assessment roll for the name of the owner opposite the description of the land.

Joint  
owners,  
resident and  
non-resident

(6) Where land is owned by more persons than one, and any one of the owners is not resident in the municipality,

(a) if the land is occupied by any person other than the owners, it shall be assessed against the tenant and against such of the owners as are known; and

(b) if occupied by any of the owners or if unoccupied, it shall be assessed against all the owners who are known.

Tenant,  
when to be  
deemed  
owner

(7) Where the land is assessed against a tenant under subsection 4 or 6, the tenant, for the purpose of imposing and collecting taxes upon and from the land, shall be deemed to be the owner.

Land held  
by trustees,  
etc.

(8) Land held by a trustee, guardian, executor or administrator shall be assessed against him as owner or tenant thereof, as the case may require, in the same manner as if he did not hold the land in a representative capacity, but the fact that he is a trustee, guardian, executor or administrator shall, if known, be stated in the roll, and such trustee, guardian, executor or administrator is only personally liable when and to such extent as he has property as such trustee, guardian, executor or administrator, available for payment of such taxes. 1968-69, c. 6, s. 24.

Land of  
transporta-  
tion or  
transmission  
company

**25.** The real estate of any transportation or transmission company shall be considered as land of a resident in the municipality although the company does not have an office in the municipality. 1968-69, c. 6, s. 25.

**26.**—(1) Notwithstanding paragraph 1 of section 3, the tenant of land owned by the Crown where rent or any valuable consideration is paid in respect of such land and the owner of land in which the Crown has an interest and the tenant of such land where rent or any valuable consideration is paid in respect of such land shall be assessed in respect of the land in the same way as if the land was owned or the interest of the Crown was held by any other person.

Assessment  
of Crown  
lands

(a) For the purposes of this subsection,

- (i) “tenant”, in addition to its meaning under section 1, also includes any person who uses land belonging to the Crown as, or for the purposes of, or in connection with, his residence, irrespective of the relationship between him and the Crown with respect to such use,
- (ii) “residence” means a building or part of a building used as a domestic establishment and consisting of two or more rooms in which persons usually sleep and prepare and serve meals,
- (iii) “rent or any valuable consideration” shall be deemed to have been paid, in the case of an employee using land belonging to the Crown as a residence, where there is a reduction in or deduction from the salary, wages, allowances or emoluments of the employee because of such use or where such use is taken into consideration in determining the employee’s salary, wages, allowances or emoluments.

(2) The tenant of land held in trust for a band or body of Indians who is not a member of such band or body where rent or any valuable consideration is paid in respect of such land shall be assessed in respect of the land in the same way as if the land was owned or held by any other person.

Assessment  
of Indian  
lands

(3) In addition to the liability of every person assessed under subsection 1 or 2 to pay the taxes assessed against him, the interest in such land, if any, of every person other than the Crown and the band or body of Indians for which it is held in trust or any member thereof is subject to the special lien on land for taxes given by *The Municipal Act* and is liable to be sold or vested in the municipality for arrears of taxes.

Tenant's  
interests  
may be  
sold

R.S.O. 1970,  
c. 284

(4) This section does not apply to the interest of a timber licensee, lessee, grantee or concessionaire in a licence, lease or agreement issued under *The Crown Timber Act*, or to any right in timber cut or to be cut by the holder of, or party to, such licence, lease or agreement, or to such improvements or equipment as lumber camps, tote roads, telephone lines, hoists, logging rail-

Application  
to timber  
licensees,  
etc.  
R.S.O. 1970,  
c. 102

ways, dams or booms that may be used only temporarily in connection with logging or lumbering operations conducted under such licence, lease or agreement. 1968-69, c. 6, s. 26.

Assessment  
of land

**27.**—(1) Subject to this section, land shall be assessed at its market value.

Market  
value

(2) Subject to subsection 3, the market value of land assessed is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.

Farm lands  
and  
buildings

(3) For the purposes of subsection 2, in ascertaining the market value of farm lands used only for farm purposes by the owner thereof or used only for farm purposes by a tenant of such an owner and buildings thereon used solely for farm purposes, including the residence of the owner or tenant and of his employees and their families on the farm lands, consideration shall be given to the market value of such lands and buildings for farming purposes only, and in determining such market value consideration shall not be given to sales of lands and buildings to persons whose principal occupation is other than farming.

Where  
owner dies  
or retires

(4) Where the owner of farm lands entitled to the benefit of subsection 3 dies or retires, the market value of the lands and buildings in respect of which subsection 3 applies shall be ascertained in the manner provided in subsection 3 in assessing such lands during the period the lands are held by him after his retirement or held by his estate after his death, but in no case beyond the two years immediately following the owner's death or retirement unless such lands are occupied by the surviving spouse of the deceased owner or by the retired owner.

Effect of  
assessment  
determined  
on appeal

(5) When an appeal has been taken in respect of the assessment of farm lands mentioned in subsection 3 from the decision of the Assessment Review Court, the assessment as finally determined on appeal shall remain fixed in respect of the same lands and buildings for a period of two years after the year in respect of which such appeal was taken so long as the lands and buildings are owned by a person whose principal occupation is farming.

Reforested  
lands

(6) Land that has been planted for forestation or reforestation purposes shall not be assessed at a greater value by reason only of such planting.

Woodlands

(7) Land used as woodlands shall not be assessed at a greater value by reason of the presence of the trees thereon nor shall it be assessed at a lesser value by reason of the removal of the trees.

Interpre-  
tation

(8) In subsection 7, "woodlands" means lands having not less than 400 trees per acre of all sizes, or 300 trees measuring over two inches in diameter, or 200 trees measuring over five inches in



diameter, or 100 trees measuring over eight inches in diameter (all such measurements to be taken at four and one-half feet from the ground) of one or more of the following kinds: white or Norway pine, white or Norway spruce, hemlock, tamarack, oak, ash, elm, hickory, basswood, tulip (white wood), black cherry, walnut, butternut, chestnut, hard maple, soft maple, cedar, sycamore, beech, black locust, or catalpa, or any other variety that may be designated by order in council, and which lands have been set apart by the owner with the object chiefly, but not necessarily solely, of fostering the growth of the trees thereon and that are fenced and not used for grazing purposes. 1968-69, c. 6, s. 27.

**28.**—(1) The profits from a mine or mineral work shall be assessed by, and the tax leviable thereon shall be paid to, the municipality in which the mine or mineral work is situate, or, in unorganized territory, the school board or boards having jurisdiction over the area in which the mine or mineral work is situate; provided that the assessment on each oil or gas well operated at any time during the year shall be at least \$20.

Profits  
from mines

(2) Every person occupying mineral land for the purpose of any business other than mining is liable to business assessment as provided by section 7.

Business  
assessment

(3) Where in any deed or conveyance of lands heretofore or hereafter made, the petroleum mineral rights in the lands have been or are reserved to the grantor, such mineral rights shall be assessed at their market value.

Petroleum  
mineral  
rights

(4) Notwithstanding this section, the tax payable to a municipality upon a mine or mining work liable to taxation under section 3 of *The Mining Tax Act* is subject to the approval of the Department and shall not exceed,

Tax on mine,  
etc., to be  
approved  
by Depart-  
ment  
R.S.O. 1970,  
c. 275

- (a)  $1\frac{1}{2}$  per cent of the amount of the annual profits upon which the tax payable under the said section 3 is based, up to and including \$2,333,333.33; and
- (b)  $2\frac{1}{2}$  per cent of the annual profits upon which the tax payable under the said section 3 is based, that are in excess of \$2,333,333.33.

(5) Notwithstanding paragraph 19 of section 3 but subject to subsection 4, the assessment of profits from a mine or mineral work or mining work under this section shall be deemed to be real property assessment and the taxes payable in accordance with subsection 4 upon such assessment are a lien upon all the lands in the municipality of the person liable for payment of such taxes.

Mine  
assessment  
to be  
required  
as for  
real property

(6) The taxes payable in accordance with subsection 1 or 4 shall be distributed among the bodies that would have received them had such taxes been levied in the usual way and in the same ratio.

Distribution  
of taxes



Minerals  
and surface  
rights  
becoming  
vested in  
one owner

(7) Where any estate in mines, minerals or mining rights has heretofore or may hereafter become severed from the estate in the surface rights of the same lands, whether by means of the original patent or lease from the Crown, or by any act of the patentee or lessee, his heirs, executors, administrators, successors or assigns, such estates after being so severed shall thereafter be and remain for all purposes of taxation and assessment separate estates notwithstanding the circumstances that the titles to such estates may thereafter be or become vested in one owner.

Regulations,  
payments to  
mining muni-  
cipalities

(8) The Minister may make regulations,

- (a) providing for the making of payments to mining municipalities, and providing a formula or method of computing such payments;
- (b) prescribing the terms and conditions of such payments;
- (c) prescribing definitions of any word or expression, except the expression "mining municipality", whether or not used in this Act, for the purposes of the regulations;
- (d) designating municipalities as mining municipalities for the purposes of the regulations;
- (e) providing, in respect of any matter dealt with in or under the regulations, that the approval of the Minister shall be required. 1968-69, c. 6, s. 28 (1-8).

Idem

(9) Where a municipality receives a payment in any year under the regulations made under subsection 8, it shall not assess or tax the profits of any mine or mineral work under subsection 1 or 4 in that year. 1970, c. 57, s. 4.

Idem  
R.S.O. 1970,  
c. 275

(10) Notwithstanding subsection 9, where there are no mines profits calculated under section 3 of *The Mining Tax Act*, the payment shall form part of the general funds of the municipality.

Idem

(11) Payments made under subsection 8 shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1968-69, c. 6, s. 28 (10, 11).

Exemption  
of farm  
lands from  
taxation for  
certain  
expenditures

**29.**—(1) In any municipality where lands held and used as farm lands only and in blocks of not less than five acres by any one person are not benefited to as great an extent by the expenditure of moneys for and on account of public improvements, of the character hereinafter mentioned, in the municipality as other lands therein generally, the council shall annually before the 1st day of March pass a by-law declaring what part, if any, of such lands are exempt or partly exempt from taxation for the expenditures of the municipality incurred for waterworks, fire protection, garbage collection, sidewalks, pavements or sewers, or the lighting, oiling, tarring, treating for dust or watering of the streets,

regard being had in determining such exemption to any advantage, direct or indirect, to such lands arising from such expenditures or any of them.

(2) The clerk shall forthwith notify by registered mail each person affected by the by-law as to what exemption is provided for his lands by the by-law. Notice

(3) Any person complaining that the by-law does not exempt him or sufficiently exempt him or his lands from taxation may, within fourteen days after the mailing of the notice, notify the clerk of the municipality and the secretary of the Ontario Municipal Board of his intention to appeal against the provisions of the by-law, or any of them, to the Ontario Municipal Board which has power to alter or vary any or all of the provisions of the by-law and to determine the matter of complaint in accordance with the spirit and intent of this section. Appeal  
against  
by-law

(4) If the council fails to pass the by-law before the 1st day of March, any person affected may, on or before the 21st day of March, notify the clerk of the municipality and the Minister of his intention to appeal to the Minister, and, upon such an appeal being taken, the Minister may make an order declaring what part, if any, of the lands of the person appealing is exempt or partly exempt from taxation, and such order when approved by the Lieutenant Governor in Council and published in *The Ontario Gazette* shall be deemed to be the by-law of the council as if passed under subsection 1 except that there shall be no appeal therefrom under subsection 3. Appeal  
where no  
by-law  
passed

(5) Nothing in this section shall be deemed to prevent or affect any right of appeal against an assessment. 1968-69, c. 6, s. 29. Assessment  
appeals not  
affected

**30.**—(1) Section 29 applies to a police village so that farm lands situate therein may be exempted or partly exempted from taxation in the same manner, to the same extent, and for the purposes mentioned in that section. Exemption  
of farm  
lands in  
police  
villages

(2) The trustees or board of trustees of a police village have power to and shall pass by-laws as provided for in section 29 and forthwith after passing the by-law shall furnish a certified copy thereof to the clerk of the township or townships in which the police village or any part thereof is situate, and all notices to be given under that section shall be given to the trustees or board of trustees of the police village instead of to the clerk of the municipality. Exemption  
by-law  
to be passed  
by trustees  
of police  
village

(3) The trustees or board of trustees of a police village shall notify the clerk of the township or townships, in which the police village or any part thereof is situate, of any decision of the Minister or the Ontario Municipal Board in respect of lands in the police village made under section 29 forthwith after it is received. Notice of  
by-law  
and of  
decisions to  
be given to  
township  
clerk

Application  
of by-law  
by township  
council in  
striking  
rates

(4) The provisions of every by-law of a police village passed under the authority of this section, and of every decision of the Minister or the Ontario Municipal Board with respect to such police village, shall be made applicable by the council of the township or townships in which the police village or any part thereof is situate in striking the rates to be levied in or for the purposes of the police village. 1968-69, c. 6, s. 30.

Agreement  
for fixed  
assessment  
for golf  
course

**31.—(1)** Any local municipality may enter into an agreement with the owner of a golf course for providing a fixed assessment for the land occupied as a golf course, but not including the part of the land actually occupied by any building or structure or such building or structure, to apply to taxation for general, school and special purposes, but not to apply to taxation for local improvements.

Duties of  
municipal  
officials:

(2) Where a golf course has a fixed assessment under an agreement under subsection 1,

assessment

(a) the golf course shall be assessed each year as if it did not have a fixed assessment;

taxes

(b) the treasurer shall calculate each year what the taxes would have been on the golf course if it did not have a fixed assessment;

record

(c) the treasurer shall keep a record of the difference between the taxes paid each year and the taxes that would have been paid if the golf course did not have a fixed assessment and shall debit the golf course with this amount each year during the term of the agreement and shall add to such debit on the 1st day of January in each year such interest as may be agreed upon on the aggregate amount of the debit on such date; and

distribution  
of taxes

(d) the taxes paid on the fixed assessment shall be distributed among the bodies for which the municipality is required to levy in the proportion that the levy for each body bears to the total levy.

Agreement  
to be  
registered

(3) Every agreement shall be registered in the registry office or land titles office, as the case may be, in the county in which the golf course or any part thereof is located.

Termination  
of agree-  
ment, as  
to all of  
lands

(4) When an agreement is for any reason terminated as to the whole of the lands in respect of which the fixed assessment is given, the owner shall,

(a) pay to the municipality the amount debited against the golf course, including the amounts of interest debited in accordance with clause *c* of subsection 2; or

- (b) require the municipality to purchase the golf course for an amount equal to the fixed assessment.

(5) When an agreement is for any reason terminated as to a as to part of lands part of the land in respect of which the fixed assessment is given, the owner shall,

- (a) pay to the municipality that portion of the amount debited against the golf course, including the amounts of interest debited in accordance with clause *c* of subsection 2, that is attributable to the portion of the golf course in respect of which the agreement is terminated; or

- (b) require the municipality to purchase the part of the golf course in respect of which the agreement is terminated for an amount equal to the fixed assessment that is attributable to such part.

(6) Where a golf course has a fixed assessment under an agreement under subsection 1, the agreement shall terminate as to the whole or any part of the land in respect of which the fixed assessment is given when the whole or any such part thereof ceases to be occupied for the purposes of a golf course. Agreement terminated when land ceases to be used as golf course

(7) Any agreement may be terminated on the 31st day of December in any year upon the owner of the golf course giving six months notice of such termination in writing to the municipality. Termination of agreement

(8) Any dispute between the municipality and the owner of the golf course in relation to an agreement or this section shall be settled by the Ontario Municipal Board, and the decision of the Board is final. 1968-69, c. 6, s. 31. Dispute

**32.—**(1) The property by subclause *v* of clause *k* of section 1 declared to be “land” that is owned by companies or persons supplying water, heat, light and power to municipalities and the inhabitants thereof, and companies and persons operating transportation systems and companies or persons distributing by pipe line natural gas, manufactured gas or liquefied petroleum gas or any mixture of any of them shall, whether situate or not situate upon a highway, street, road, lane or other public place, when and so long as in actual use, be assessed at its market value in accordance with section 27. 1968-69, c. 6, s. 32 (1); 1970, c. 57, s. 5. Assessment of lands of water, heat, light, power and transportation companies

(2) This section does not apply to a pipe line as defined in section 33. Application of section



Assessment of works extending into two or more municipalities

(3) Where the property of any such company or person extends through two or more municipalities, the portion thereof in each municipality shall be separately assessed therein at its value as an integral part of the whole property.

Assessment of structures, rails, etc., of transportation system

(4) Notwithstanding any other provisions of this Act, the structures, substructures, superstructures, rails, ties, poles and wires of such a transportation system are liable to assessment and taxation in the same manner and to the same extent as those of a steam railway are under section 38 and not otherwise. 1968-69, c. 6, s. 32 (2-4).

Interpretation  
R.S.O. 1970,  
c. 148

**33.—**(1) In this section,

- (a) “gas” means gas as defined in *The Energy Act*;
- (b) “oil” means crude oil or liquid hydrocarbons or any product or by-product thereof;
- (c) “pipe line” means, subject to subsection 4, a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,
  - (i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,
  - (ii) all haulage, labour, engineering and overheads in respect of such pipe line,
  - (iii) any section, part or branch of any pipe line,
  - (iv) any easement or right of way used by a pipe line company, and
  - (v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

- (d) “pipe line company” means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

Notice to municipalities

(2) On or before the 1st day of July in each year, the pipe line company shall notify the assessment commissioner of each municipality of the age, length and diameter of all its transmission pipe lines located in the municipality as of the 1st day of June of that year.



(3) All disputes as to whether or not a gas pipe line is a <sup>Disputes</sup> transmission pipe line shall, on the application of any interested party, be decided by the Ontario Energy Board and its decision is final.

(4) Notwithstanding any other provisions of this Act, but <sup>Assessment</sup> subject to subsection 6, a pipe line shall be assessed for taxation of pipe line purposes at the following rates:

OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1" . . .	Nominal Inside Diameter . . . . .	\$ 1.20
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . .	" " " . . . . .	1.45
2" and $2\frac{1}{2}$ " . . .	" " " . . . . .	1.70
3" . . . . .	" " " . . . . .	2.20
4" and $4\frac{1}{2}$ " . . .	" " " . . . . .	2.70
5" and $5\frac{3}{8}$ " . . .	" " " . . . . .	3.20
6" and $6\frac{3}{8}$ " . . .	" " " . . . . .	3.70
8" . . . . .	" " " . . . . .	5.90
10" . . . . .	" " " . . . . .	6.80
12" . . . . .	" " " . . . . .	8.55
14" . . . . .	Outside Diameter . . . . .	9.20
16" . . . . .	" " . . . . .	10.35
18" . . . . .	" " . . . . .	11.45
20" . . . . .	" " . . . . .	12.45
22" . . . . .	" " . . . . .	13.75
24" . . . . .	" " . . . . .	14.80
26" . . . . .	" " . . . . .	15.70
28" . . . . .	" " . . . . .	16.75
30" . . . . .	" " . . . . .	17.70
32" . . . . .	" " . . . . .	18.65
34" . . . . .	" " . . . . .	19.50
36" . . . . .	" " . . . . .	20.35
38" . . . . .	" " . . . . .	21.35

FIELD AND GATHERING PIPE LINE

$\frac{3}{4}$ " to 1" . . .	Nominal Inside Diameter . . . . .	\$ .90
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . .	" " " . . . . .	1.09
2" and $2\frac{1}{2}$ " . . .	" " " . . . . .	1.31
3" . . . . .	" " " . . . . .	1.69
4" and $4\frac{1}{2}$ " . . .	" " " . . . . .	2.10
5" and $5\frac{3}{8}$ " . . .	" " " . . . . .	2.47
6" and $6\frac{3}{8}$ " . . .	" " " . . . . .	2.89
8" . . . . .	" " " . . . . .	4.65
10" . . . . .	" " " . . . . .	5.44
12" . . . . .	" " " . . . . .	6.90

## GAS TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
$3\frac{1}{4}"$ to $1"$ . . .	Nominal Inside Diameter . . . .	\$ 1.20
$1\frac{1}{4}"$ to $1\frac{1}{2}"$ . .	" " " " . . . .	1.45
$2"$ and $2\frac{1}{2}"$ . . .	" " " " . . . .	1.75
$3"$ . . . . .	" " " " . . . .	2.25
$4"$ and $4\frac{1}{2}"$ . . .	" " " " . . . .	2.80
$5"$ and $5\frac{5}{8}"$ . . .	" " " " . . . .	3.30
$6"$ and $6\frac{5}{8}"$ . . .	" " " " . . . .	3.85
$8"$ . . . . .	" " " " . . . .	6.20
$10"$ . . . . .	" " " " . . . .	7.25
$12"$ . . . . .	" " " " . . . .	9.20
$14"$ . . . . .	Outside Diameter . . . . .	10.00
$16"$ . . . . .	" " . . . . .	11.40
$18"$ . . . . .	" " . . . . .	12.75
$20"$ . . . . .	" " . . . . .	14.00
$22"$ . . . . .	" " . . . . .	15.65
$24"$ . . . . .	" " . . . . .	17.00
$26"$ . . . . .	" " . . . . .	18.25
$28"$ . . . . .	" " . . . . .	19.70
$30"$ . . . . .	" " . . . . .	21.10
$32"$ . . . . .	" " . . . . .	22.50
$34"$ . . . . .	" " . . . . .	23.80
$36"$ . . . . .	" " . . . . .	25.15
$38"$ . . . . .	" " . . . . .	26.70

Adjustment  
of assess-  
ment

(5) The assessment of pipe lines in each municipality determined under subsection 4 shall be adjusted by the application of the latest equalization factor provided by the Department.

Deprecia-  
tion of pipe  
lines

(6) A pipe line shall be depreciated at the rate of 5 per cent of the assessed value of the pipe line every three years from the year of installation, with a maximum depreciation of 55 per cent.

Pipe lines  
removed  
and installed  
in another  
location

(7) A pipe line removed from one location and reinstalled in another location shall, where depreciation is applicable, continue to be depreciated at the foregoing rates as though remaining in its original location.

Pipe lines  
abandoned

(8) A pipe line that has been abandoned in any year ceases to be liable for assessment effective with the assessment next following the date of abandonment.

Reduction  
of assess-  
ment on  
pipe line

(9) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas.

Liability  
to taxation  
of pipe line  
on exempt  
property

(10) Where a pipe line is located on, in, under, along or across any highway or any lands exempt from taxation under this or any special or general Act, the pipe line is nevertheless liable to assessment and taxation in accordance with this section.

(11) Notwithstanding the other provisions of this Act or any other special or general Act, a pipe line liable for assessment and taxation under this section is not liable for assessment and taxation in any other manner for municipal purposes, including local improvements, property and business taxes, but all other land and buildings of the pipe line company liable for assessment and taxation under this or any other special or general Act continue to be so liable.

Tax liability

(12) Where a pipe line extends through two or more municipalities, only the portion or portions thereof in each municipality are liable for assessment and taxation in that municipality.

Assessment of pipe line extending into two or more municipalities

(13) Where a pipe line is placed on a boundary between two municipalities or so near thereto as to be in some places on one side and in other places on the other side of the boundary line or on or in a road that lies between two municipalities, although it may deviate so as in some places to be wholly or partly within either of them, such pipe line shall be assessed in each municipality for one-half of the amount assessable against it under this section.

Pipe lines on municipal boundaries

(14) The assessment of a pipe line under this section shall be deemed to be real property assessment and the taxes payable by a pipe line company on the assessment of a pipe line under this section are a lien on all the lands of such company in the municipality.

Real property assessment

(15) The rates set out in subsection 4 shall be reviewed by the Minister in the year 1971 and every third year thereafter, and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection 4. 1968-69, c. 6, s. 33.

Review of rates

**34.** Except as provided by subsection 14 of section 8, where any structure, pipe, pole, wire or other property is erected or placed upon, in, over, under or affixed to any highway forming the boundary line between two local municipalities, or so that such structure, pipe, pole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either of them, it shall be assessed in each municipality for one-half of the whole assessable value in both municipalities taken together. 1968-69, c. 6, s. 34.

Pipes, poles, wires, etc., on boundary lines

**35.—**(1) In this section,

Interpretation

(a) “commission” means the council of a municipal corporation, or a commission or trustees or other body, operating a public utility for or on behalf of the corporation and includes a municipal parking authority established under any general or special Act;

- R.S.O. 1970,  
c. 118 (b) “public utility” means a public utility as defined in *The Department of Municipal Affairs Act* and includes parking facilities on land owned by a municipal corporation or by a municipal parking authority established under any general or special Act.
- Property deemed vested in commission (2) For the purposes of this section, land and buildings owned by and vested in a municipal corporation and used for the purposes of a public utility shall be deemed to be owned by and vested in the commission operating the public utility.
- Annual payments to municipalities (3) Every commission shall pay in each year, to any municipality in which are situated lands or buildings owned by and vested in the commission, the total amount that all rates, except, subject to subsections 4 and 5, rates on business assessment, levied on the assessment for real property that is used as a basis for computing business assessment in that municipality for taxation purposes based on the assessed value of the land according to the average value at which lands are assessed in the municipality and the assessed value of such buildings, would produce.
- Idem (4) The commission shall also pay the amount that the current rates on business assessment on the lands or buildings referred to in subsection 3, not including any lands or buildings referred to in subsection 5, would produce based on the applicable percentage of the assessed value provided for in subsection 3.
- Idem (5) The commission shall also pay the amount that the current rates on business assessment would produce on lands and buildings owned or occupied by the commission for carrying on the business of selling by retail electrical goods, supplies or appliances.
- Local improvements  
R.S.O. 1970,  
c. 255 (6) Notwithstanding section 63 of *The Local Improvement Act*, the commission shall pay local improvement assessments.
- Credit to municipal general fund (7) The payments received under subsections 3, 4 and 5 shall be credited by the municipality to the general fund of the municipality.
- Mode of assessment appeals (8) Subject to subsections 3, 4 and 10, the property on which payment is to be made under subsections 3, 4 and 5 shall be assessed according to this Act, and the provisions of this Act respecting appeals apply.
- Valuation to be included in equalizing assessment (9) The valuation of properties assessed under this section shall be included when equalizing assessment or apportioning levies for any purpose.
- Exemptions (10) In making the assessment referred to in subsection 8, there shall be no assessment of machinery whether fixed or not nor of the foundation on which it rests, works, structures other than buildings referred to in subsection 3 or 5, substructures, super-



structures, except where a substructure or superstructure forms an integral part of a building referred to in subsection 3 or 5, rails, ties, poles, towers, lines nor of any of the things excepted from exemption from taxation by paragraph 17 of section 3 nor of other property, works or improvements not referred to in subsection 3 or 5, nor of an easement or the right or use of occupation or other interest in land not owned by the commission.

(11) Nothing in this section exempts from taxation any part of any works, structures, substructures or superstructures when occupied by a tenant or lessee. Application

(12) Notwithstanding subsection 10, telephone companies assessed under this section shall be assessed to the same extent as telephone companies are assessed under sections 8 to 11. Municipal  
telephone  
companies

(13) This section applies notwithstanding any other provision in this Act or any other general or special Act or any agreement heretofore made, and any agreement heretofore made under which a commission pays taxes, or money in lieu of taxes or for municipal services, is void. Application  
of section

(14) The provisions of this Act and *The Municipal Act* with respect to the collection of taxes apply *mutatis mutandis* to the payments required to be made by a commission under this section. 1968-69, c. 6, s. 35. Collection  
of payments  
R.S.O. 1970,  
c. 284

**36.** In the case of any bridge or tunnel liable to assessment that belongs to or is in the possession of any person or corporation, and that crosses a river forming the boundary between Ontario and any other country or province, the part of such structure within Ontario shall be valued as an integral part of the whole and on the basis of the valuation of the whole, and at its actual cash value as it would be appraised upon a sale to another company possessing similar powers, rights and franchises and subject to similar conditions and burdens, but subject to the provisions and basis of assessment set forth in subsection 1 of section 32. 1968-69, c. 6, s. 36. Bridges  
and tunnels  
over inter-  
national  
boundary  
line

**37.** Any bridge or tunnel belonging to or in possession of any person or corporation between two municipalities in Ontario shall be valued as an integral part of the whole and on the basis of valuation of the whole. 1968-69, c. 6, s. 37. Bridges and  
tunnels  
between  
municipal-  
ities

**38.**—(1) Every railway company shall transmit annually on or before the 1st day of February to the clerk of every municipality in which any part of the roadway or other real property of the company is situate, a statement showing, Railway  
companies  
to furnish  
certain  
statements  
to municipa-  
lities

- (a) the quantity of land occupied by the roadway, and the actual value thereof (according to the average value of land in the locality) as rated on the assessment roll of the previous year;



- (b) the vacant land not in actual use by the company and the value thereof;
- (c) the quantity of land occupied by the railway and being part of the highway, street, road or other public land (but not being a highway, street or road that is merely crossed by the line of railway) and the assessable value as hereinafter mentioned of all the property belonging to or used by the company upon, in, over, under or affixed to it;
- (d) the real property, other than that referred to in clauses *a*, *b* and *c*, in actual use and occupation by the company, and its assessable value as hereinafter mentioned,

and where the clerk receives the statement he shall forward it to the assessment commissioner.

Assessment  
of railway  
land

(2) The land and property under subsection 1 shall be assessed as follows,

- (a) the roadway or right of way at the actual value thereof according to the average value of land in the locality, but not including the structures, substructures and superstructures, rails, ties, poles and other property thereon;
- (b) the vacant land, at its value as other vacant lands are assessed under this Act;
- (c) the structures, substructures, superstructures, rails, ties, poles and other property belonging to or used by the company (not including rolling stock and not including tunnels or bridges in, over, under or forming part of any highway) upon, in, over, under or affixed to any highway, street or road (not being a highway, street or road merely crossed by the line of railway) at their actual cash value as they would be appraised upon a sale to another company possessing similar powers, rights and franchises, regard being had to all circumstances adversely affecting the value including the non-user of such property;
- (d) the real property not designated in clauses *a*, *b* and *c* in actual use and occupation by the company, at its actual cash value as it would be appraised upon a sale to another company possessing similar powers, rights and franchises.

Rails, ties,  
poles, sub-  
structures,  
etc., not  
assessable

(3) Notwithstanding any other provision in this Act, the structures, substructures, superstructures, rails, ties, poles, wires and other property on railway lands and used exclusively for railway purposes or incidental thereto (except stations, freight sheds, offices, warehouses, elevators, hotels, heating plants,

round houses and machine, repair and other shops) shall not be assessed, but heating plants shall be exempt from assessment to the extent that the amount of steam or heat is used in relation to the cleaning or heating of rolling stock.

(4) The assessment commissioner shall deliver at, or transmit by mail to, any station or office of the company a notice, addressed to the company, of the total amount at which he has assessed the land and property of the company in the municipality showing the amount of each description of property mentioned in the above statement of the company, and the statement and notice respectively shall be held to be the assessment return and notice of assessment required by sections 14 and 40. Notice of assessment

(5) A railway company assessed under this section is exempt from assessment in any other manner for municipal purposes except for local improvements and except for business assessment in respect of hotels under section 7 and business assessment upon the portion of a heating plant that is in the proportion that the amount of the heat produced by such plant that is sold for the purposes of a hotel or for a purpose not exclusively a railway purpose or incidental thereto bears to the total heat produced by such plant in any year. 1968-69, c. 6, s. 38. Exemption from other assessments

**39.** When an assessment has been made under section 38, the amount thereof in the roll as finally revised and corrected for the year is the amount for which the company shall be assessed for the next following four years in respect of the land and property included in such assessment, but at any time before the return of the assessment roll in any year, Quinquennial railway assessment

- (a) the amount may be reduced by deducting therefrom the value of any land or property included in such assessment that has ceased to belong to the company; and
- (b) the amount may be increased by adding thereto the value of any additional land or property not included in such assessment and the value or increase in value of any land or property of the company that is erected, altered or enlarged and the value or increase in value of any land or property or portion thereof that has ceased to be exempt from taxation. 1968-69, c. 6, s. 39.

**40.**—(1) The assessment commissioner or an assessor, shall, at least fifteen days prior to the completion of the assessment roll, deliver in the manner provided in this section to every person named therein, except persons entered on the roll under section 18, a notice in a form prescribed by the regulations of the sum or sums for which such person has been assessed and such other particulars as are mentioned in the prescribed form, and shall enter in the roll opposite the name of the person the date of delivery of the notice or shall make one or more certificates to be Notice of assessment

attached to the roll or to any part of the roll certifying the date or dates upon which the notices were delivered, and the entry, certificate and certificates are *prima facie* evidence of the delivery.

Delivery  
of notice,  
residents

(2) When the person assessed is resident in the municipality, the notice shall be delivered by leaving it at his residence or place of business or by mailing it addressed to him at his residence or place of business.

non-  
residents

(3) When the person assessed is not resident in the municipality, the notice shall be delivered by mailing it addressed to him at his last known address.

Notice of  
address

(4) When a person assessed furnishes the assessment commissioner with a notice in writing giving the address to which the notice of assessment may be delivered to him and requesting that the notice be delivered to such address, the notice of assessment shall be so delivered, and such notice stands until revoked in writing.

Information  
notice

(5) The assessment commissioner or an assessor shall deliver with the notice required by subsection 1, or publish in a newspaper having general circulation in the municipality in which the land assessed is situated, a notice setting forth,

- (a) the last day for appealing the assessment;
- (b) the times and places where the assessment roll may be examined and discussed with the assessment commissioner or an assessor;
- (c) any significant and unusual change in the amount of the assessment; and
- (d) any other information which, in the opinion of the assessment commissioner, is desirable,

but any failure to send such notice does not affect the validity of any assessment. 1968-69, c. 6, s. 40.

Correction  
of errors  
in assess-  
ment roll

**41.** Notwithstanding the delivery or transmission of any notice provided for by section 40, the assessment commissioner at any time before the time fixed for the return of the assessment roll may correct any error in any assessment and alter the roll accordingly, and he shall do so upon notice being given to him of any error, and, upon so correcting or altering any assessment, he shall deliver or transmit to the person assessed an amended notice. 1968-69, c. 6, s. 41.

Where land  
omitted from  
collector's  
roll

**42.—(1)** If at any time it appears to any officer of the municipality that land liable to assessment has been omitted from the collector's roll in whole or in part for the current year or for

either or both of the next two preceding years, he shall report the omission to the clerk of the municipality and thereupon, or if the omission comes to the knowledge of the clerk of the municipality in any other manner, the clerk shall enter such land on the collector's roll as well for the arrears of the preceding year or years, if any, as for the tax on the current year, and the valuation of the land shall be the average of the three previous years, if assessed for such three years, but, if not so assessed, the clerk shall require the assessment commissioner for the current year to value the land, and it is the duty of the assessment commissioner to do so when required, and to certify the valuation in writing to the clerk.

(2) If at any time it appears to any officer of the municipality that any business assessment has been omitted in whole or in part from the assessment roll for the current year or for either or both of the next two preceding years, he shall report the omission to the clerk of the municipality and thereupon, or if the omission to assess comes to the knowledge of the clerk in any other manner, the clerk shall enter such business assessment on the assessment roll from which such assessment has been omitted, and as well for the preceding year as for the current year shall enter on the collector's roll the taxes payable in respect thereof, but in respect of any assessment for a preceding year or years the taxes payable in respect thereof shall be calculated at the rates of taxation levied for such year or years.

Omissions  
of business  
assessment

(3) Where the clerk performs any of the duties required by this section, he shall, before the assessment is added to the collector's roll under subsection 1 or to the assessment roll under subsection 2, deliver to or send by registered mail to the person so taxed a notice setting out the amount of the assessment and the time within which an appeal may be made from such assessment, and the same rights in respect of appeal apply as if the building or land or business had been assessed in the usual way, but for the purposes of an appeal from an assessment under this section the assessment roll shall be deemed to have been returned on the day such assessment is added to the collector's roll under subsection 1 or to the assessment roll under subsection 2, as the case may be. 1968-69, c. 6, s. 42.

Notice  
and  
appeals

**43.**—(1) The clerk of the municipality shall, after the 1st day of January and before the 28th day of November in any year, enter in the collector's roll,

Additions to  
collector's  
roll

- (a) the value or increase in value, as the case requires, as certified by the assessment commissioner, of any building as determined by section 27 that before or after the 1st day of January is erected, altered or enlarged and that after the 1st day of January becomes occupied or reasonably fit for occupancy;



- (b) the value or increase in value, as the case requires, as certified by the assessment commissioner, of any building or land or portion thereof that after the 1st day of January ceases to be exempt from taxation or that ceases to be assessed as provided in subsection 3 of section 27;
- (c) the name of any person who after the 1st day of January commences to occupy or use land for any business purpose mentioned in section 7, and the amount of the business assessment with respect thereto, as certified by the assessment commissioner; and
- (d) the increase in value, as certified by the assessment commissioner, of any pipe line that ceases to be entitled to the reduction provided for in subsection 9 of section 33.

Amount of  
taxes

(2) Where an entry is made in the collector's roll under this section, the amount of the taxes to be levied thereon shall be a portion of the amount of taxes that would have been levied for the current year if the assessment had been made in the usual way, and that portion shall be in the ratio that the number of months remaining in the current year after the month in which the notice provided for in subsection 4 is delivered or sent bears to the number 12, and shall be entered on the collector's roll and collected in the same manner as if the assessment had been made in the usual way.

Rates for  
commercial  
property  
added to  
roll

(3) Where the amount of a business assessment is entered in the collector's roll under clause *c* of subsection 1, the real property with respect to which such business assessment is computed is, for the number of months remaining in the current year after the month in which the notice provided for in subsection 4 is delivered or sent, liable to taxation at the rate levied under subsection 2 of section 302 of *The Municipal Act*, and the clerk of the municipality shall amend the collector's roll accordingly.

R.S.O. 1970,  
c. 284

Notice and  
appeals

(4) Where an entry is made or is to be made in the collector's roll under this section, the assessment commissioner shall, before the assessment is added to the collector's roll, deliver as provided for notices of assessment in subsections 2 and 3 of section 40 to the person to be taxed a notice setting out the amount of the assessment and, where applicable, the amount of the assessment of real property liable to taxation under subsection 3, and the time within which an appeal may be made from such assessment, and the same rights in respect of appeal lie as if the assessment had been made in the usual way, but for the purposes of an appeal made from an assessment under this section the assessment roll shall be deemed to have been returned on the day such assessment is added to the collector's roll.



(5) When a notice has been delivered under subsection 4, the assessment commissioner shall enter in the collector's roll, opposite the name of the person, the date of delivery of the notice or shall make one or more certificates to be attached to the roll or to any part of the roll certifying the date or dates upon which the notices were delivered, and the entry, certificate and certificates are *prima facie* evidence of the delivery.

Evidence of  
delivery  
of notice

(6) Where taxes are levied under this section,

Distribution

(a) the amount thereof that, if the taxes had been levied in the usual way, would have been paid to any body, for which the council is required by law to levy rates or raise money, shall be set up in the accounts of the municipality as a credit accruing to that body in the same proportion as the levy for that body bears to the total levy;

(b) notwithstanding subsection 3 of section 47 of *The Public Schools Act* and subsection 2 of section 8 of *The Secondary Schools and Boards of Education Act*, the amount credited to a body under clause *a* shall be paid over to such body not later than the 31st day of December in the year in which it was levied and shall be used by such body to reduce the levy for the purposes of such body in the next succeeding year, and, if the amount or any portion thereof is not paid over to such body on or before the 31st day of December in the year in which it was levied, the municipality so in default shall, if demanded by such body, pay interest thereon to such body at the rate of 6 per cent per annum from such date until payment is made.

R.S.O. 1970,  
cc. 385, 425

(c) the balance remaining after the setting up of all credits as provided in clause *a* shall be taken into the general funds of the municipality;

(d) notwithstanding clauses *a* and *b*, where in a secondary school district a municipality is required under an agreement or an award of a board of arbitrators or the Ontario Municipal Board to pay over to the secondary school board a fixed annual percentage of the costs of the erection or maintenance of a school or schools, it is not necessary for the municipality to pay over an amount to the secondary school board as required by clauses *a* and *b*, but the municipality shall set up a credit of the amounts that would but for this clause have been paid over to the board, which credit shall be used to reduce the levy for the board in the following year.

(7) Where taxes are levied under this section, the treasurer shall deliver to each of the bodies entitled to a credit under clause *a* of subsection 6 on or before the 31st day of December in the year

Treasurer's  
statement

in which the taxes were levied a statement sufficient to enable the body to determine the correctness of the credit. 1968-69, c. 6, s. 43.

Additions to  
assessment  
roll

**44.**—(1) The clerk of the municipality shall, after the return of the assessment roll and on or before the 31st day of December in any year, add to the assessment roll, at the end thereof,

- (a) the value or increase in value, as the case requires, as certified by the assessment commissioner, of any building as determined by section 27 that after the return of the roll is erected, altered or enlarged and as erected, altered or enlarged is occupied or reasonably fit for occupancy;
- (b) the value or increase in value, as the case requires, as certified by the assessment commissioner, of any building or land or portion thereof that after the return of the roll ceases to be exempt from taxation or that ceases to be assessed as provided in subsection 3 of section 27; and
- (c) the name of any person who after the return of the roll commences to occupy or use land for any business purpose mentioned in section 7, and the amount of the business assessment with respect thereto, as certified by the assessment commissioner.

Amendment  
to roll

(2) Where real property in any year becomes liable to taxation under subsection 3 of section 43, the clerk of the municipality shall amend accordingly the assessment roll prepared in that year.

Notice and  
appeals

(3) Where an addition or amendment is made to the assessment roll under this section, the assessment commissioner shall, before the assessment is added to the roll or the roll is amended, deliver as provided for notices of assessment in subsections 2 and 3 of section 40 to the person assessed a notice setting out the amount of the assessment and, where applicable, the amount of the assessment of real property liable to taxation under subsection 3 of section 43, and the time within which an appeal may be made from such assessment, and the same rights in respect of appeal lie as if the assessment had been made in the usual way, but for the purposes of appeal from an assessment under this section the assessment roll shall be deemed to have been returned on the day such assessment is added to the assessment roll or the roll is amended.

Evidence of  
delivery  
of notice

(4) When a notice has been delivered under subsection 3, the assessment commissioner shall enter in the assessment roll, opposite the name of the person, the date of delivery of the notice or shall make one or more certificates to be attached to the roll or to any part of the roll certifying the date or dates upon which the notices were delivered, and the entry, certificate and certificates are *prima facie* evidence of the delivery.

(5) Notwithstanding section 47, where additions or amendments are made to an assessment roll under this section, the last revised assessment roll shall, Last revised assessment roll, what to include

- (a) for the purpose of apportioning a tax levy or fixing and levying the rate of taxation in any year, be deemed to include the assessments added or amended under this section; and
- (b) for the purpose of equalizing assessments between municipalities in a county, be deemed to include the assessments added under subsection 1. 1968-69, c. 6, s. 44.

**45.**—(1) To prevent the creation of false votes, where a person claims to be assessed, or to be entered or named in any assessment roll, or claims that another person should be assessed, or entered or named in such assessment roll, as entitled to be a voter, and an assessor has reason to suspect that the person so claiming, or for whom the claim is made, has not a just right to be so assessed or to be entered or named in the roll as entitled to be a voter, such assessor shall make reasonable inquiries before assessing, entering or naming any such person in the assessment roll. Assessor to make inquiries so as to prevent creation of false votes

(2) Any person entitled to be assessed, or to have his name inserted or entered in the assessment roll of a municipality, shall be so assessed or shall have his name so inserted or entered without any request in that behalf, and a person entitled to have his name so inserted or entered in the assessment roll, or in the list of voters based thereon, or to be a voter in the municipality, has, in order to have the name of any other person entered or inserted in the assessment roll or list of voters, as the case may be, the same right to apply, complain or appeal to a court or a judge in that behalf as such other person would or can have personally, unless such other person actually dissents therefrom. Persons entitled to be assessed, etc., to be entered on roll without request

(3) Any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in any such case to give a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully inserts or procures or causes the insertion of any fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with intent in any such case to deprive any person of his right to be a voter, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, or to imprisonment for a term of not more than six months, or to both. Penalty for wrongfully inserting names in roll

(4) In this section, “voter” means voter as defined in *The Voters’ Lists Act*. 1968-69, c. 6, s. 45.

Interpretation  
R.S.O. 1970,  
c. 485

Time for  
yearly  
assessment  
and return  
of roll

**46.**—(1) Except as provided in subsections 2 and 4, in every municipality the assessment shall be made yearly at any time between the 1st day of January and the 30th day of September, and the assessment roll of a municipality shall be returned to the clerk not later than the 1st day of October. 1970, c. 57, s. 6 (1).

Assessment  
by areas

(2) In any year, the assessment may be taken in different areas within a municipality at different times, as determined by the assessment commissioner, and separate assessment rolls shall be prepared for such areas and such rolls may be returned at different times, as determined by the assessment commissioner, but in no case later than the 1st day of October.

Publication  
of notice

(3) Where the assessment commissioner proceeds under subsection 2, he shall cause to be published not later than the 10th day of February in a daily or weekly newspaper that in his opinion has such circulation within the municipality as to provide reasonable notice to persons affected thereby, a notice setting forth,

(a) that the assessment in the municipality will be taken in different areas at different times;

(b) the different areas to be assessed; and

(c) the time for assessment and return of the assessment roll in each of the areas,

and shall forthwith deliver a copy of such notice to the clerk of the municipality. 1970, c. 57, s. 6 (2).

Extension of  
time for  
return of roll

(4) Where in any year it appears that the assessment roll of a municipality or the assessment roll of an area within a municipality will not or has not been returned to the clerk of the municipality by the 1st day of October, the Minister may extend the time for the return of the assessment roll for such period as appears necessary, provided that, when such an extension is made, the time for closing the Assessment Review Court for that year shall be extended for a period corresponding to that for which the time for return of the assessment roll has been extended. 1970, c. 57, s. 6 (3).

Notice of  
extension

(5) Where the Minister extends the time for the return of the assessment roll under subsection 4, he shall cause a notice of the extension, specifying the date to which the time has been extended and the final date for commencing an appeal to the Assessment Review Court, to be published in a daily or weekly newspaper that in the opinion of the Minister has such circulation within the municipality as to provide reasonable notice to persons affected thereby.

Time for  
disposing  
of appeals

(6) Except as provided in subsection 4, in every municipality the Assessment Review Court shall hear and dispose of all appeals and certify the assessment roll in every year on or before the 30th day of November. 1968-69, c. 6, s. 46 (5, 6).



**47.—**(1) The yearly assessment roll of a municipality last returned to the clerk, when corrected and revised by the Assessment Review Court and certified by the regional registrar, is for all purposes the last revised assessment roll of the municipality.

Last revised  
assessment  
roll

(2) Where in a municipality no appeals are made to the Assessment Review Court and the time for appealing has elapsed, the assessment roll shall be presented by the clerk to the regional registrar and if he is satisfied that there have been no such appeals he shall certify the roll and the roll, as so certified, is for all purposes the last revised assessment roll of the municipality. 1970, c. 57, s. 7.

Last revised  
assessment  
roll where no  
appeals  
made

(3) In every municipality the rate of taxation for each year shall be fixed and levied on the assessment taken in the preceding year according to the last revised assessment roll thereof.

Taxation  
to be levied  
on last  
revised  
assessment  
roll

(4) Notwithstanding subsection 3, the council of a municipality may fix and levy the rate of taxation on the assessment taken in the preceding year according to the assessment roll as returned.

Taxation on  
assessment  
roll as  
returned

(5) Nothing in this section in any way deprives any person of any right of appeal provided for in this Act, which may be exercised and the appeal proceeded with in accordance with this Act, notwithstanding that the assessment roll has been certified by the Assessment Review Court and becomes the last revised assessment roll.

Rights of  
appeal  
preserved

(6) Where, as the result of an appeal or of an action or other proceeding in any court, any assessment is added, reduced, increased or otherwise altered, the taxes levied and payable with respect to such assessment shall be adjusted accordingly and, if the taxes levied have been paid, any overpayment shall be refunded by the municipality.

Adjustment  
of taxes as  
result of  
appeal

(7) Where a special Act conflicts with this section, this section prevails. 1968-69, c. 6, s. 47 (3-7).

Special Act  
superseded

**48.—**(1) Where any land is detached from one municipality and annexed to another municipality after the return of the assessment roll of the latter municipality, the council of the latter municipality shall pass a by-law in the year in which taxation is to be levied on that assessment roll adopting the assessments of the lands annexed, as last revised while they were part of the first-mentioned municipality, as the basis of the assessment of such lands for taxation in that year by the municipality to which the lands are annexed.

Assessment  
of annexed  
areas

(2) The clerk of the municipality, forthwith after the passing of the by-law under subsection 1, shall deliver or send by registered mail to every person assessed in respect of the lands annexed a notice setting out the amount of the assessment, and

Notice of  
assessment  
and appeals



the same rights in respect of appeal apply as if the assessment had been made in the usual way notwithstanding that the person assessed did not appeal, or notwithstanding the disposition of any appeal taken, as the case may be, in respect of the assessment while the lands were a part of the municipality from which they became detached.

Application  
where  
annexation  
order  
provides for  
assessment

(3) This section does not apply where an annexation order otherwise provides for the assessment of the lands annexed by such order. 1968-69, c. 6, s. 48.

Making  
affidavit

**49.**—(1) Upon completion of the assessment roll, the assessment commissioner shall attach thereto his affidavit or solemn affirmation in Form 1 attesting to his compliance with this Act in the preparation of the assessment roll.

Roll to be  
delivered  
to clerk

(2) The assessment commissioner shall on or before the day fixed for the return of the assessment roll deliver it to the clerk of the municipality completed, with the affidavit or affirmation attached, and the clerk shall immediately upon receipt of the roll file it in his office and it shall be open to inspection during office hours.

Omission  
to attach  
affidavit

(3) The omission to attach to the assessment roll the affidavit or affirmation required by subsection 1 does not invalidate the roll. 1968-69, c. 6, s. 49.

Assessment  
Review  
Court  
established

**50.**—(1) The Assessment Review Court is established and shall be composed of a chairman and such number of vice-chairmen and other members as the Lieutenant Governor in Council considers advisable, all of whom shall be appointed by the Lieutenant Governor in Council.

Quorum

(2) One member of the Assessment Review Court shall constitute a quorum and is sufficient for the exercise of all of the jurisdiction and powers of the court.

Powers  
of court

(3) The Assessment Review Court may,

- (a) administer oaths to witnesses and require them to give evidence under oath;
- (b) may issue summonses requiring the attendance of witnesses and the production of documents and things;
- (c) hold sittings at any place in Ontario and in more than one place at the same time.

Enforce-  
ment of  
summons

(4) If any person,

- (a) on being duly summoned as a witness before the court makes default in attending; or

- (b) being in attendance as a witness refuses to take an oath legally required by the court to be taken, or to produce any document or thing in his power or control legally required by the court to be produced by him, or to answer any question to which the court may legally require an answer; or
- (c) does any other thing that would, if the court had been a court of law having power to commit for contempt, have been contempt of that court,

a member of the court may certify the offence of that person under his hand to the High Court, and the High Court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the High Court.

(5) Subject to the approval of the Lieutenant Governor in Council, the Assessment Review Court shall make rules governing its practice and procedure and the exercise of its powers. Rules

(6) The court shall meet and may adjourn from time to time in every municipality in which there is an appeal in respect of any assessment in such municipality to hear and try all complaints in respect of which any person may appeal to the court under this or any other Act. Meetings of court

(7) There shall be a registrar of the court and a regional registrar of the court for each assessment region, all of whom shall be appointed by the Lieutenant Governor in Council. Registrar and regional registrars

(8) The regional registrar shall designate a person as clerk of the court for each hearing of the court in his region and the person so designated shall keep in a book to be supplied by the regional registrar a record of the proceedings and decisions of the court which shall be certified by a member of the court who heard the appeal and when so certified shall be forthwith forwarded to the regional registrar. 1968-69, c. 6, s. 50. Clerk of court

(9) Where sittings of the Assessment Review Court are to be held in any municipality, the municipality shall provide a suitable room and other necessary accommodation for holding the court. Accommodation for court

(10) *The Public Service Act*, except sections 4 and 6, applies to the members of the Assessment Review Court and to the registrar of the court and the regional registrars of the court who are employed on a full-time basis. Application of R.S.O. 1970, c. 386 to members, registrar and regional registrars

Application  
of  
R.S.O. 1970,  
c. 387 to  
members,  
registrar  
and  
regional  
registrars

(11) *The Public Service Superannuation Act* applies to the members of the Assessment Review Court and to the registrar of the court and the regional registrars of the court who are employed on a full-time basis. 1970, c. 57, s. 8.

Oath of  
members  
of court

**51.** Every member of the Assessment Review Court before entering upon his duties shall take and subscribe the following oath (or affirmation in cases where, by law, affirmation is allowed):

"I, . . . . ., do solemnly swear (or affirm) that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals to the Assessment Review Court that may be brought before me for trial as a member of the court."

1968-69, c. 6, s. 51.

Notice of  
complaint,  
by person  
aggrieved

**52.—(1)** Any person complaining of an error or omission in regard to himself, as having been wrongly inserted in or omitted from the roll or as having been undercharged or overcharged by the assessor in the roll, may personally or by his agent give notice in writing to the assessment commissioner that he considers himself aggrieved for any or all of such causes, and shall give a name and address where notices can be served by the regional registrar of the Assessment Review Court as provided by subsection 4.

by other  
person

(2) Any person including a municipality or a school board may, within the time limited by subsection 3, give notice in writing to the assessment commissioner complaining that any other person has been assessed too low or too high or has been wrongly inserted in or omitted from the roll and shall give a name and address where notices can be served on him by the regional registrar of the Assessment Review Court as provided by subsection 4, and the matter shall be decided in the same manner as complaints by a person assessed with regard to his own assessment.

Time for  
giving  
notice

(3) Any notice of complaint under subsection 1 or 2 shall be mailed to the assessment commissioner within fourteen days after the day upon which the roll is required by law to be returned, or within fourteen days after the return of the roll, in case the roll is not returned within the time fixed for that purpose, and the assessment commissioner shall immediately transmit all notices received by him to the regional registrar of the Assessment Review Court.

Notice of  
hearing

(4) The regional registrar of the Assessment Review Court shall give to the clerk of the municipality and to all persons complaining or in respect of whom a complaint has been made under subsection 1 or 2 notice of any hearing by the Assessment Review Court at least fourteen days before the date fixed for the hearing in the following form:

Take notice that the Assessment Review Court will sit at .....on the.....day of.....in the matter of a complaint.  
The complaint has been made by.....and states that.....

(Signed) Regional Registrar.

(5) The regional registrar of the Assessment Review Court shall advertise in a newspaper having general circulation in the municipality the time and place at which the court will hold its first sitting for the year, and the advertisement shall be published at least fourteen days before the time for such first sitting.

Publication of first sitting of court

(6) The regional registrar of the Assessment Review Court shall cause any notice under this section to be left at the person's residence or place of business or to be sent by mail addressed thereto.

Service of notice

(7) Where value is a ground of a complaint that is proceeded with, at the commencement of the hearing of the complaint by the court, the assessor shall explain the manner in which the assessment has been arrived at and the complainant shall explain the nature of his complaint.

Preliminary explanation

(8) After hearing the assessor and the complainant where required and any evidence adduced, the court shall determine the matter and in all complaints involving value shall determine the amount of the assessment.

Determination by court

(9) Where the court is requested during the hearing by a party to the proceedings to deliver reasons for its decision, the court shall give written reasons for its decision.

Written reasons

(10) Where at any time during the hearing by the court it appears that any other person should be a party to the hearing, the court shall adjourn in order to give such person notice of the hearing.

Adding party

(11) If any party fails to appear, either in person or by an agent, the court may proceed *ex parte*.

When to proceed *ex parte*

(12) Where it appears that there are palpable errors in the roll of any municipality that need correction, the court may at any time during its sitting correct the roll if no alteration of assessed values is involved, and, if any alteration of assessed value is necessary, the court may extend the time for making complaints for ten days from a day named by the court and may then meet and determine the additional matter complained of, and the assessor may be or may be directed by the court to be the complainant for such purpose.

Correction of errors



Alteration  
of roll by  
clerk

(13) The decision of the Assessment Review Court shall be forwarded by the regional registrar to the clerk of each municipality and the clerk of the municipality shall forthwith,

- (a) alter the assessment roll in accordance with the decisions of the court and shall write his name or initials against every alteration, and shall complete the roll by totalling the amounts of the assessments therein and inserting such total; or
- (b) where data processing equipment is used, may, as an alternative to complying with clause *a*, forthwith cause to be prepared a new assessment roll which shall include all changes made by the court, and shall initial each entry in which a change has been made by the court and shall complete the roll by totalling the amounts of the assessments therein and inserting such total. 1968-69, c. 6, s. 52 (1-13).

Notice of  
decision

(14) When the Assessment Review Court has heard and decided a complaint, the regional registrar shall forthwith after the receipt of the record of the decision from the clerk of the court cause notice thereof to be given,

- (a) where the complaint was as to the amount of the assessment, by registered mail; and
- (b) in the case of all other complaints, by ordinary mail,

to the persons to whom notice of the hearing of such complaint was given, and such notice shall state thereon that such decision may be appealed to the county judge within fourteen days of the mailing of the notice and shall also contain a list of the persons to whom notice was given under subsection 4.

Notice where  
assessment  
\$50,000 or  
more

(15) When the Assessment Review Court has heard and decided a complaint and the assessment is in an amount of \$50,000 or more or has been increased by the Assessment Review Court to an amount of \$50,000 or more, the notice under subsection 14 shall also state thereon that, if no appeal is taken to the county judge, such decision may be appealed to the Ontario Municipal Board within twenty-one days of the mailing of such notice. 1970, c. 57, s. 9.

Roll to be  
binding not-  
withstanding  
errors in it  
or in notice  
sent to  
persons  
assessed

**53.** The roll as finally revised by the Assessment Review Court and certified by the regional registrar shall, subject to subsections 5 and 6 of section 47, be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 40 or the omission to deliver or transmit such notice, provided that the provisions of this section in so far as they relate to the omission to deliver or transmit such notice do not apply to any person who has given the assessment commissioner the notice provided for in subsection 4 of section 40. 1968-69, c. 6, s. 53; 1970, c. 57, s. 10.



**54.** A copy of any assessment roll, or portion of any assessment roll, written or printed, and certified to be a true copy by the clerk of the municipality, shall be received as *prima facie* evidence in any court without proof of the signature or the production of the original assessment roll of which such certified copy purports to be a copy, or a part thereof. 1968-69, c. 6, s. 54.

Copy of  
roll duly  
certified  
to be  
evidence

**55.**—(1) An appeal to the county judge lies, at the instance of the municipal corporation or a school board, or at the instance of the assessment commissioner, or at the instance of any person assessed or of any municipal elector of the municipality, not only against a decision of the Assessment Review Court on an appeal to that court, but also against any omission, neglect or refusal of that court to hear or decide an appeal. 1968-69, c. 6, s. 55 (1).

Appeal to  
county judge

(2) A notice of appeal to the county judge shall, within fourteen days of the mailing of the notice under subsection 14 of section 52, be sent by the party appealing by registered mail to the assessment commissioner, and the assessment commissioner shall immediately transmit such notice to the regional registrar who shall forthwith mail a copy of such notice to the persons to whom notice was given under such subsection 14. 1970, c. 57, s. 11.

Notice of  
appeal

(3) The regional registrar shall, immediately after the time limited for filing appeals, forward a list thereof to the judge who shall then notify the regional registrar of the day he appoints for the hearing thereof and shall, if in his opinion the appeals or any of them appear to involve the calling or examination of witnesses, fix the place for holding such court within the municipality where the assessment roll is in question, or at the place nearest thereto where the sittings of the small claims court within his jurisdiction are held. 1968-69, c. 6, s. 55 (3), *amended*.

Day and  
place for  
hearing

(4) The regional registrar shall thereupon give notice to all the appellants and all the persons appealed against in the same manner as is provided for giving notice on a complaint under section 52, but in the event of failure by the regional registrar to have the required service of the notices in any appeal made, or to have the service made in proper time, the judge may direct service to be made for some subsequent day upon which he may sit.

Regional  
registrar  
to notify  
parties

(5) The regional registrar shall cause a notice to be posted up in a conspicuous place in the office of the clerk of the municipality, or the place where the council of the municipality holds its sittings, containing the names of all the appellants and persons appealed against, with a brief statement of the ground or cause of appeal, together with the date at which the court will be held to hear appeals.

List of  
appellants,  
etc., to be  
posted up by  
regional  
registrar

(6) The clerk of the Assessment Review Court is the clerk of the court, and he shall keep, in the book referred to in section 50, a

Clerk of  
court

record of the decision of the judge upon each appeal, which shall be certified by the judge and when so certified shall be forwarded to the regional registrar.

When  
appeals  
to be  
determined

(7) At the court so held, the judge shall hear the appeals and may adjourn the hearing from time to time and defer judgment thereon at his pleasure but so that, subject to any special Act affecting a particular municipality, all appeals are determined not later than the 30th day of January in the year following that in which the appeals were made.

Extension  
of time for  
determina-  
tion of  
appeals

(8) Where in any year the time for closing the Assessment Review Court in a municipality is extended under subsection 4 of section 46, the time for the judge to determine appeals is correspondingly extended.

Where  
judge dies  
or is  
incapable  
of hearing  
appeal

(9) Where the judge dies or becomes incapable before hearing an appeal or determining an appeal, the regional registrar shall forthwith notify in writing the succeeding judge or acting judge of the appeal and such judge shall hear and determine such appeal, and the time for determining the appeals under subsection 7 does not apply.

Subpoena

(10) A subpoena to compel the attendance of any witness required before the county judge upon any appeal under this Act may be issued by the clerk of the county court of the county in which is situated the municipality whose assessment roll is in question, and the subpoena shall be tested as are other subpoenas issued out of the county court of the county in actions therein and may be entitled as is provided in section 58. 1968-69, c. 6, s. 55 (4-10).

Assessment  
roll to be  
produced to  
the court

**56.** At the court to be held by the county judge to hear the appeals hereinbefore provided for, the person having charge of the assessment roll certified by the regional registrar shall appear and produce such roll and all papers and writings in his custody connected with the matter of the appeal. 1968-69, c. 6, s. 56; 1970, c. 57, s. 12.

Powers of  
judge  
sitting in  
appeal from  
Assessment  
Review  
Court

**57.—**(1) In all proceedings before the county judge under or for the purposes of this Act, the judge possesses all such powers for compelling the attendance of and for the examination on oath of all parties, whether claiming or objecting or objected to, and of all other persons, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him in the county court.

Appeal to  
county  
judge  
where  
question of  
fact  
involved

(2) The hearing of the appeal by the county judge shall, where questions of fact are involved, be in the nature of a new trial, and either party may adduce further evidence in addition to that heard before the Assessment Review Court, subject to any order

as to costs or adjournment that the judge may consider just. 1968-69, c. 6, s. 57.

**58.** All process or other proceedings by way of appeal may be entitled as follows: Style of proceedings

In the Matter of Appeal from the Assessment Review Court in respect of the.....of .....

....., Appellant,

and

....., Respondent,

and they need not be otherwise entitled. 1968-69, c. 6, s. 58.

**59.** The costs of any proceeding before the Assessment Review Court or the judge shall be paid by or apportioned between the parties in such manner as the court or judge considers proper, and where costs are ordered to be paid, the order for payment thereof may be filed in any small claims court having jurisdiction in the municipality and is enforceable as a judgment or order of such court. 1968-69, c. 6, s. 59, *amended*. Costs, payment of

**60.** The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance, and none other, and shall be taxed according to the allowance in the small claims court for such costs, and, in cases where execution issues, the costs thereof as in the like court, and of enforcing the execution, may also be collected thereunder. 1968-69, c. 6, s. 60, *amended*. What costs chargeable

**61.** County court judges are entitled to receive from the several municipalities as their expenses for holding courts in such municipalities other than the county town of the county in which the judge resides, for the purpose of hearing appeals from the Assessment Review Court under this Act, the same sums as they are allowed for holding courts for revising voters' lists. 1968-69, c. 6, s. 61. Expenses of county judges on assessment appeals

**62.—(1)** The decision of the judge shall be forwarded by the regional registrar to the clerk of the municipality who shall forthwith alter the assessment roll in accordance with the decisions of the judge, and shall write his name or initials against every alteration. 1968-69, c. 6, s. 62 (1). Alteration of roll by clerk

(2) When the judge has heard and decided an appeal, the regional registrar shall, forthwith after receipt of the record of the decision from the clerk of the court, cause notice of the decision in such appeal to be given by registered mail to the persons to whom notice of the hearing was given and such notice shall state thereon that such decision may be appealed to the Ontario Municipal Board within twenty-one days of the mailing of such notice. 1968-69, c. 6, s. 62 (2); 1970, c. 57, s. 13. Notice of decision

Appeals to  
O.M.B.

**63.**—(1) The municipal corporation, a school board, the assessment commissioner, any person assessed and any person who has filed a complaint under subsection 2 of section 52 may appeal from the decision of the county judge to the Ontario Municipal Board. 1968-69, c. 6, s. 63 (1).

Appeal  
under  
s. 42-44,  
76 or 77

(2) An appeal also lies to the Ontario Municipal Board from a decision of the county judge under section 42, 43, 44, 76 or 77. 1968-69, c. 6, s. 63 (2); 1970, c. 57, s. 14.

Appeals to  
O.M.B.

(3) Where an assessment is in an amount of \$50,000 or more or has been increased by the Assessment Review Court to an amount of \$50,000 or more and where no appeal is taken to the county judge, an appeal also lies to the Ontario Municipal Board from a decision of the Assessment Review Court in the same manner as an appeal under subsection 1 or 2.

Provisions  
applicable  
to appeals,  
powers of  
O.M.B.

(4) Except as provided in subsections 5 and 7, sections 55 to 59 and section 64 apply to appeals taken under subsection 1 or 2, and on such appeals the Ontario Municipal Board has the powers and duties of a county judge under such sections.

Notice of  
appeal

(5) A notice of appeal to the Ontario Municipal Board under subsection 1 or 2 shall, within twenty-one days after notice of the decision appealed from has been given under subsection 2 of section 62, be sent by the party appealing by registered mail to the secretary of the Board and to the persons to whom notice of the hearing before the judge was given.

Notice of  
appeal  
under  
subs. 3

(6) A notice of appeal to the Ontario Municipal Board under subsection 3 shall, within twenty-one days after notice of the decision appealed from has been given under subsection 14 of section 52, be sent by the party appealing by registered mail to the secretary of the Board and to the persons to whom notice of the hearing before the Assessment Review Court was given.

Notice of  
hearing

(7) Upon receipt of a notice of appeal under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for hearing the appeal and shall send notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing. 1968-69, c. 6, s. 63 (3-7).

Appeal from  
O.M.B. to  
Court of  
Appeal in  
certain  
matters

(8) An appeal lies from the decision of the Ontario Municipal Board under this section to the Court of Appeal upon all questions of law or the construction of a statute, a municipal by-law, any agreement in writing to which the municipality concerned is a party, or any order of the Board.

Procedure  
on appeals

(9) The practice and procedure on the appeal to the Court of Appeal shall be the same *mutatis mutandis*, subject to any rule of the court or regulation of the Ontario Municipal Board, as upon an appeal from a county court.



(10) If, by the decision of the Ontario Municipal Board or by the judgment of the Court of Appeal, it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality concerned shall alter the assessment roll to give effect to the decision or judgment and shall write his name or initials against every alteration. 1968-69, c. 6, s. 63 (8-10).

Alteration  
in roll as  
result of  
appeal from  
O.M.B.

**64.**—(1) Upon an appeal on any ground against an assessment, the Assessment Review Court, county judge or Ontario Municipal Board hearing an appeal under section 63, or the Court of Appeal, as the case may be, may reopen the whole question of the assessment so that omissions from, or errors in the assessment roll may be corrected, and the amount for which the assessment should be made, and the person or persons who should be assessed therefor may be placed upon the roll, and if necessary the roll of the municipality, even if returned as finally revised, may be opened so as to make it correct in accordance with the findings made on appeal.

Assessment  
may be  
opened upon  
appeal

(2) In determining the value at which any land shall be assessed, reference may be had to the value at which lands in the municipality are assessed. 1968-69, c. 6, s. 64.

Reference  
to other  
lands in  
municipality

**65.**—(1) Upon a complaint or appeal with respect to an assessment, the Assessment Review Court, county judge or Ontario Municipal Board may review the assessment and, for the purpose of such review, has all the powers and functions of the assessor in making an assessment, determination or decision under this Act, and any such assessment, determination or decision made on review by the Assessment Review Court, county judge or Ontario Municipal Board shall, except as provided in subsection 2, be deemed to be an assessment, determination or decision of the assessor and has the same force and effect.

Powers and  
functions of  
Assessment  
Review  
Court,  
county  
judge,  
O.M.B.

(2) A decision of the Assessment Review Court, county judge or Ontario Municipal Board with regard to persons alleged to be wrongfully placed upon or omitted from the assessment roll or assessed at too high or too low a sum is final and binding unless appealed in accordance with the provisions of this Act.

Decision  
re quantum,  
etc., final

(3) For greater certainty, it is hereby declared that the provisions of sections 52, 55 and 63 respecting appeals are intended to establish machinery for the review of an assessment for the purpose of ensuring the administrative integrity of the assessment roll, and, except as provided in subsection 2, such provisions shall not be deemed to affect the right of any person to apply to a superior, county or district court for a judicial determination of any question relating to an assessment. 1968-69, c. 6, s. 65.

Purpose of  
provisions  
re appeals



Application  
to court by  
originating  
notice

**66.**—(1) The municipal corporation, assessment commissioner or any person assessed may apply by originating notice to the Supreme Court or to the county court of the county in which the assessment is made for the determination of any question relating to the assessment, except a question as to persons alleged to be wrongfully placed upon or omitted from the assessment roll or assessed at too high or too low a sum.

Service of  
notice

(2) The persons to be served with notice under this section shall be the persons assessed in respect of the property relating to the assessment, the assessment commissioner and the clerk of the municipality affected by the assessment.

Time for  
notice

(3) No originating notice shall be commenced except within the times for commencing an action or other proceeding set forth in section 67.

Appeal to  
Divisional  
Court

(4) An appeal lies to the Court of Appeal from the judgment of the Supreme Court or from the judgment of the county court.

Final  
revision of  
roll not to  
be delayed,  
alteration  
of roll on  
Court of  
Appeal  
judgment

(5) The appeal from any judgment made by the Supreme Court or by a county court on an originating notice given pursuant to this section or the hearing or argument or other proceedings thereon shall not delay the final revision of the assessment roll, but, if by the judgment of the Court of Appeal it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality shall cause the proper entries to be made in the assessment roll to give effect to the judgment on the originating notice or on appeal therefrom.

Judgment  
of court  
binding on  
Assessment  
Review  
Court, etc.

(6) Notwithstanding that a question of the assessment of any person is pending before the Assessment Review Court, a judge of the county court or the Ontario Municipal Board, the judgment of the Supreme Court, the county court or the Court of Appeal shall be given effect to and is binding upon the Assessment Review Court, the judge of the county court and the Ontario Municipal Board. 1968-69, c. 6, s. 66.

Limitation  
of actions  
in court

**67.** No action or other proceeding, except an action or other proceeding brought by or on behalf of a municipality for the collection of arrears of taxes, shall be brought in court with respect to an assessment or taxes based thereon,

- (a) except within sixty days after the day upon which the assessment roll is required by law to be returned, or within sixty days after the return of the roll, in case the roll is not returned within the time fixed for that purpose;

- (b) where a complaint with respect to the assessment is made to the Assessment Review Court, except within the time limited for appealing from the decision of the Assessment Review Court to the county court judge;
- (c) where an appeal is made from the decision of the Assessment Review Court to the county court judge, except within the time limited for appealing from the decision of the county court judge to the Ontario Municipal Board; and
- (d) where an appeal is made from the decision of the county court judge to the Ontario Municipal Board, except within fifteen days after the date of the decision of the Ontario Municipal Board,

provided, where an appeal is made to the Court of Appeal, no action or other proceeding shall be brought in any other court with respect to the assessment. 1968-69, c. 6, s. 67.

**68.** Where any part of an assessment is declared invalid or in error by the Supreme Court or a county court, the whole assessment is not thereby invalidated and the court may direct that the assessment roll be altered in accordance with its judgment and the clerk of the municipality concerned shall so alter the roll and shall write his name or initials against every alteration. 1968-69, c. 6, s. 68.

Alteration  
of roll as  
result of  
judgment

**69.** No matter that could have been raised by way of complaint to the Assessment Review Court or in an action or other proceeding with respect to an assessment in a court within the times limited for bringing such complaint, action or other proceeding under this Act shall be raised by way of defence in any action or other proceeding brought by or on behalf of a municipality. 1968-69, c. 6, s. 69.

Defence  
limited in  
actions to  
collect  
taxes, etc.

**70.** Where the assessment of any real property is altered on an appeal or in an action, any business assessment based on the assessed value of such real property shall be altered in the business assessment roll by the clerk of the municipality to conform with the altered real property assessment, whether or not the business assessment roll has been finally revised. 1968-69, c. 6, s. 70.

Revision of  
business  
assessment  
roll on  
alteration  
of real  
property  
assessment

**71.—(1)** The Department shall examine the amounts of the assessments of rateable property in each municipality and locality on the last revised assessment roll of each municipality and locality and determine as nearly as may be what the total of the amounts of the assessment of such rateable property should be so that costs may be apportioned and grants provided on a basis which is just and equitable as between municipalities and localities.

Equalized  
assessment  
determi-  
nation

Equalized  
assessment  
and  
equalization  
factor

(2) The amount so determined under subsection 1 is the equalized assessment of each municipality and locality and the equalization factor of a municipality or locality is the percentage that the total of the amounts of the assessments of rateable property of a municipality or locality is of the equalized assessment of the municipality or locality, but neither the equalized assessment nor equalization factor of a municipality or locality shall be taken into account in the assessment of any land except as provided in this or any other Act.

Publication

(3) The equalized assessment and equalization factor of each municipality and locality shall be published in *The Ontario Gazette* in each year not later than the 15th day of July.

Review

(4) On or before the 1st day of November in the year of publication under subsection 3, a municipality or locality may apply to the Ontario Municipal Board for a review of its equalized assessment and equalization factor and the Department may apply for a review of the equalized assessment and equalization factor of any municipality or locality and the applicant shall give notice in writing by registered mail to the secretary of the Board.

Hearing

(5) Upon receipt of a notice of application for review under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for hearing the application and shall send notice thereof by registered mail to the Department and to the clerk of the municipality or the secretary of each school board in the locality concerned at least fourteen days before the hearing.

Powers of  
O.M.B.

(6) If the equalized assessment and equalization factor under review are not just and equitable, the Ontario Municipal Board, upon the hearing of the application, shall determine a just and equitable equalized assessment and equalization factor.

Appeal

(7) Subsections 8 and 9 of section 63 apply *mutatis mutandis* to an application under this section.

Effect of  
appeal

(8) The decision of the Ontario Municipal Board or the judgment of the Court of Appeal on an application under this section does not affect the equalized assessment and equalization factor of a municipality or locality, as determined under subsection 1 or 2, for the purposes of any provision of any Act where equalized assessments or equalization factors are used in any determination and an appeal therefrom or a review thereof is provided. 1970, c. 57, s. 15, *part*.

Apportion-  
ment of  
county rates

**72.**—(1) Subject to subsection 5, the council of a county, in apportioning a county rate among the different townships, towns and villages within the county, shall apportion 30 per cent of the county rate based upon the equalized assessments under section 71 for the year preceding the year in which the levy for county purposes is to be made together with the amounts determined

under subsections 2 and 3 and shall apportion 70 per cent of the county rate in the same proportions as the last apportionment made for county purposes as adjusted by any additional amounts to which the county is entitled under section 43.

(2) Where, in the year preceding the year in which an apportionment is to be made, a mining municipality has received or becomes entitled to a payment under the regulations made under section 28, an amount shall be determined by,

Assessment equivalent of mining revenue payments to be added to equalized assessments

(a) multiplying the part of such payment computed with reference to the mine's profits as calculated under section 3 of *The Mining Tax Act* and set out by the mine assessor in the notice or notices of assessment referred to in section 11 of *The Mining Tax Act* in respect of any or all mines or mineral works located in the municipality that was credited to the general funds of the municipality by 1,000; and

R.S.O. 1970, c. 275

(b) dividing the product obtained under clause *a* by the aggregate of the mill rate for general and county purposes levied in that year by the municipality on the types of assessments mentioned in clauses *a*, *b* and *c* of subsection 2 of section 302 of *The Municipal Act*; and

R.S.O. 1970, c. 284

(c) adjusting the quotient obtained under clause *b* by the application of the equalization factor determined under section 71 for the year preceding the year in which the levy for county purposes is to be made.

(3) Where, in the year preceding the year in which an apportionment is to be made, a municipality has received or becomes entitled to a payment in lieu of taxes from the Crown in right of Canada, except payments received under an agreement with the Government of Canada authorized by *The Municipal Act* to relieve a tenant or user of land owned by the Crown from taxes or payment for municipal services, or from the Crown in right of Ontario or any board, commission, corporation or other agency thereof or The Hydro-Electric Power Commission of Ontario, except payments received under section 13 of *The Ottawa River Water Powers Act, 1943*, an amount shall be determined by adjusting the valuations of the properties for which such payments are made by the application of the equalization factor determined under section 71 for the year preceding the year in which the levy for county purposes is to be made.

Valuations on which payments in lieu of taxes paid to be added to equalized assessments

1943, c. 21

(4) Where payment in lieu of taxes from the Crown in right of Canada has been reduced by deductions made under the *Municipal Grants Act* (Canada), the amount of the valuations of the properties for which such payments are made shall, for the purposes of subsection 3, be reduced in the same proportion as the amount of the grants was reduced.

Idem

R.S.C. 1952, c. 182



Apportion-  
ment by  
county  
council

(5) On or before the 1st day of October in each year, the council of every county shall examine for every township, town and village the apportionment for the next year that would be produced by the application of subsection 1, and, if such apportionment would not be just and equitable it may by by-law, passed on or before the 1st day of October, make such adjustments as are necessary to make an apportionment for county rates for the next year that is just and equitable and no such by-law shall be repealed or amended.

Assistance  
by assess-  
ment  
commis-  
sioner

(6) The assessment commissioner for the municipalities in the county shall provide the county council with such assistance as it may request in making the adjustments mentioned in subsection 5.

Copy of  
by-law to  
clerks

(7) Within ten days of the passing of a by-law under subsection 5, the county clerk shall send a copy of such by-law by registered mail to the clerk of each municipality. 1970, c. 57, s. 15, *part*.

Appeal

**73.**—(1) Any township, town or village that is not satisfied with a by-law passed by the county council under subsection 5 of section 72 or with the failure of the council to pass such a by-law may appeal to the Ontario Municipal Board from the decision of the council.

Notice

(2) A notice of appeal to the Ontario Municipal Board shall be sent by the municipality appealing by registered mail to the secretary of the Board, to the clerk of the county council and of every township, town and village in the county within twenty-one days after the copy of the by-law has been mailed under subsection 7 of section 72, or, where such a by-law has not been passed, within twenty-one days from the 1st day of October.

Hearing

(3) Upon receipt of a notice of appeal under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for hearing the appeal and shall send notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing.

Powers of  
O.M.B.

(4) If the apportionment under appeal is not just and equitable, the Ontario Municipal Board, upon the hearing of the appeal, shall make an apportionment for county rates for the next year that is just and equitable.

Appeal

(5) Subsections 8 and 9 of section 63 apply *mutatis mutandis* to an appeal under this section.

Adjustment  
of county  
levy

(6) Until an appeal under this section is finally disposed of, the council of the county may levy a sum for county purposes in accordance with the decision of the county council made under subsection 5 of section 72 but if, by the decision of the Ontario Municipal Board or by the judgment of the Court of Appeal, an adjustment is required in such levy, the county treasurer shall



adjust the levy so made and shall notify the clerk of every township, town and village accordingly. 1970, c. 57, s. 15, *part*.

**74.** Where at any time the boundaries of a municipality or locality are altered or a new municipality is erected, the Ontario Municipal Board shall adjust the equalized assessment determined under section 71 of the municipalities affected. 1970, c. 57, s. 15, *part*. Adjustment  
of equalized  
assessment

**75.** Where at any time the boundaries of a municipality are altered, a new municipality is erected or a municipality or a part thereof is added to or taken out of a county for municipal purposes, the Ontario Municipal Board shall adjust the apportionment of the county rate mentioned in section 72 of any county that may be affected. 1970, c. 57, s. 15, *part*. Adjustment  
of apportion-  
ment

**76.—(1)** An application to the Assessment Review Court for the cancellation, reduction or refund of taxes levied in the year in respect of which the application is made may be made by any person, Cancel-  
lations,  
reductions,  
refunds, etc.,  
of taxes

- (a) in respect of real property liable to taxation at the rate levied under subsection 2 of section 302 of *The Municipal Act* that has ceased to be real property that would be liable to be taxed at such rate; or R.S.O. 1970,  
c. 284
- (b) in respect of real property that has become exempt from taxation during the year or during the preceding year after the return of the assessment roll; or
- (c) in respect of a building that was razed by fire, demolition or otherwise during the year or during the preceding year after the return of the assessment roll; or
- (d) who is unable to pay taxes because of sickness or extreme poverty; or
- (e) who is overcharged by reason of any gross or manifest error that is a clerical error, the transposition of figures, a typographical error or similar type of error, but not an error in judgment in making the assessment upon which the taxes have been levied; or
- (f) liable for business tax who has not carried on business for the whole year, except where the business was intended to be or was capable of being carried on during a part of the year only, or was not carried on for a period of less than three months during the year by reason of repairs to or renovations of the premises in which the business was carried on; or
- (g) whose taxes are unduly burdensome by reason of an increase resulting from a different assessment generally of lands within the municipality made in the year 1968 or thereafter. 1968-69, c. 6, s. 76 (1); 1970, c. 57, s. 16 (1, 2).

Time for  
making  
application

(2) The application may be made at any time during the year in respect of which the application is made and until the 28th day of February in the following year and notice in writing of the application shall be given to the clerk of the municipality who shall immediately transmit the notice to the regional registrar. 1968-69, c. 6, s. 76 (2).

Application  
under cl. *g*

(3) Taxes levied by a municipality shall not be cancelled, reduced or refunded on an application under clause *g* of subsection 1 unless the application and a maximum amount of taxes that may be cancelled, reduced or refunded has been authorized by a by-law which may be passed by the council of the municipality.

Notice of  
hearing

(4) Notice of any hearing by the Assessment Review Court under this section shall be given by mail by the regional registrar to the clerk of the municipality and to the applicant not less than fourteen days before the date upon which the application is to be dealt with by the court. 1970, c. 57, s. 16 (3).

Application  
by clerk

(5) Where any person who is entitled to apply for the cancellation, reduction or refund of taxes under clause *e* or *f* of subsection 1 fails to apply, the clerk of the municipality may apply in his stead and the provisions of this section apply *mutatis mutandis* to such application.

Powers of  
Assessment  
Review  
Court

(6) The Assessment Review Court, subject to such restrictions and limitations as are contained in this section, may reject the application or,

- (a) where the taxes have not been paid, cancel the whole of the taxes or reduce the taxes; or
  - (b) where the taxes have been paid in full, order a refund of the whole of the taxes or any part thereof; or
  - (c) where the taxes have been paid in part, order a refund of the whole of the taxes paid or any part thereof and reduce or cancel the portion of the taxes unpaid.
- 1968-69, c. 6, s. 76 (3, 4).

Hearing and  
disposition

(7) The Assessment Review Court shall hear and dispose of every application not later than the 31st day of March in the year following the year in respect of which the application is made and the regional registrar shall thereupon cause notice of the decision in such application to be given by mail to the persons to whom notice of the hearing of such application was given and to the assessment commissioner, and such notice shall state thereon that such decision may be appealed to the county judge within fourteen days of the mailing of such notice. 1968-69, c. 6, s. 76 (5); 1970, c. 57, s. 16 (4).

Appeals

(8) An appeal may be had to the county judge by the applicant or the municipality from the decision of the Assessment Review Court or where the Assessment Review Court has omitted, neglected or refused to hear or dispose of an application under this section, and such appeal shall be a hearing *de novo*.

(9) The person appealing shall personally or by his agent give notice in writing to the clerk of the municipality, within fourteen days after notice of the decision of the Assessment Review Court has been given by the regional registrar under subsection 7, of his intention to appeal to the county judge, provided that where the municipality appeals it shall give such notice in writing to all persons interested in accordance with this subsection.

Notice of  
appeal

(10) Where a person makes application for the cancellation, reduction or refund of taxes in respect of business assessment or assessment under subsection 3 of section 7, the Assessment Review Court, on notice to any person who occupied the premises and carried on business for the whole or any part of the period in respect of which the application is made, may direct that a proper proportion of the taxes be levied against such person for the time during which such person was in occupation although the name of such person does not appear on the assessment roll in respect of such premises, and in determining the amount payable regard shall be had to the nature of the business carried on.

Occupant  
may be  
required  
to pay part  
of taxes

(11) A cancellation, reduction or refund under clause *b* of subsection 1 shall be for a proportionate part of the taxes based on the number of months in the year during which the exemption existed.

Idem

(12) A cancellation, reduction or refund under clause *c* of subsection 1 shall be for a proportionate part of the taxes levied on the building assessment based on the number of months in the year or years after the building was razed in respect of which taxes were levied. 1968-69, c. 6, s. 76 (6-10).

Idem

**77.**—(1) An application may be made by or on behalf of the municipal corporation to the Assessment Review Court for an increase in the taxes levied in the year in which the application is made with respect to any person who is undercharged by reason of any gross or manifest error that is a clerical error, the transposition of figures, a typographical error or similar type of error, but not an error in judgment in making the assessment upon which the taxes have been levied, by filing notice of the application with the regional registrar. 1968-69, c. 6, s. 77 (1); 1970, c. 57, s. 17.

Application  
for increase  
of taxes  
where gross  
error

(2) Notice of the application shall be given by mail by the regional registrar to the applicant and to the person with respect to whom application is made not less than fourteen days before the date upon which the application is to be dealt with by the court.

Notice of  
application

(3) The Assessment Review Court may reject the application or may increase the taxes to the correct amount, and the amount of the increase, subject to subsection 5, is collectable as if it had been originally levied and demanded.

Powers of  
court

Notice of  
decision

(4) Forthwith after the Assessment Review Court makes its decision, the regional registrar shall cause notice thereof to be given by mail to the person with respect to whom the application was made and such notice shall state thereon that the decision may be appealed to the county judge within ten days of the mailing of such notice.

When  
increase  
payable

(5) The amount of any increase in taxes is not payable until ten days after the mailing of the notice under subsection 4 or, if an appeal is made to the county judge until ten days after the decision of the county judge, and is not subject to any penalties applicable to taxes that are overdue and unpaid until such amount is payable.

Appeal

(6) An appeal may be had to the county judge by the applicant or by the person with respect to whom the application was made from the decision of the Assessment Review Court or where the Assessment Review Court has omitted, neglected or refused to hear or dispose of an application under this section, and such appeal shall be a hearing *de novo*.

Notice of  
appeal

(7) The appellant shall personally or by his agent give notice in writing to the clerk of the municipality and to the assessment commissioner or to the person with respect to whom the application was made, as the case may be, within ten days of the mailing of the notice under subsection 4, of his intention to appeal to the county judge.

When  
application  
not to be  
dealt with  
R.S.O. 1970,  
c. 284

(8) The Assessment Review Court shall not deal with an application under this section if a certificate with respect to current taxes has been issued by the tax collector under *The Municipal Act* before the mailing of the notice of application under subsection 2. 1968-69, c. 6, s. 77, (2-8).

Disclosure  
of infor-  
mation

**78.**—(1) Every assessment commissioner or assessor or any person in the employ of a municipality who in the course of his duties acquires or has access to information furnished by any person under section 13 or 14 that relates in any way to the determination of the value of any real property or the amount of assessment thereof or to the determination of the amount of any business assessment, and who wilfully discloses or permits to be disclosed any such information not required to be entered on the assessment roll to any other person not likewise entitled in the course of his duties to acquire or have access to the information, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, or to imprisonment for a term of not more than six months, or to both.

Exception

(2) This section does not prevent disclosure of such information by any person when being examined as a witness in an assessment appeal or in an action or other proceeding in a court or in an arbitration. 1968-69, c. 6, s. 78.



**79.** In addition to the penalties and punishments provided for by this Act for a contravention of the provisions thereof, the person guilty of such contravention is liable to every person who is thereby injured for the damages sustained by such person by reason of such contravention. 1968-69, c. 6, s. 79.

Right of  
action for  
damages  
against  
officer

**80.** This Act does not affect the terms of any agreement made with a municipal corporation, or any by-law heretofore or hereafter passed by a municipal council under any other Act for fixing the assessment of any property, or for commuting or otherwise relating to municipal taxation, but whenever in any Act of the Legislature or by any proclamation of the Lieutenant Governor in Council or by any valid by-law of a municipality heretofore passed or by any valid agreement heretofore entered into the assessment of the real and personal property of any person in a municipality is fixed at a certain amount for a period of years, unexpired at the time of the coming into force of this Act, or the taxes payable annually by any person in respect of the real and personal property are fixed at a stated amount during any such period, or the real and personal property of any person or any part thereof is exempt from municipal taxation in whole or in part for any such period, such fixed assessment or commutation of taxes or exemption shall be deemed to include any business assessment or other assessment and any taxes thereon in respect of the property or business mentioned in such Act, proclamation, by-law or agreement to which such person or the property of such person would otherwise be liable under this Act. 1968-69, c. 6, s. 80.

By-laws and  
agreements  
fixing  
assessment  
or granting  
exemption  
from  
taxation not  
affected

**81.** Where the municipal offices in a municipality are closed on Saturday and the time limited for any proceeding or for the doing of any things in such municipal offices under this Act expires or falls upon a Saturday, the time so limited shall extend to and the thing may be done on the day next following that is not a holiday. 1968-69, c. 6, 81.

Computa-  
tion of time  
for proceed-  
ings where  
time limited  
expires on  
Saturday

**82.**—(1) All by-laws passed under the provisions of subsection 1 of section 130 of *The Assessment Act*, being chapter 23 of the Revised Statutes of Ontario, 1960, providing for taking the assessment of business separately from the time for taking the assessment of real property and in the same year in which the rates of taxation thereon are to be levied, continue in force until repealed and where any such by-law is repealed the assessment of business for the year in which the by-law is repealed shall be made and levied upon in that year and, in that year and in each subsequent year, the assessment of business shall be made together with the assessment of real property for taxation in the following year.

By-laws  
providing for  
business  
assessment  
in current  
year  
continued  
until  
repealed

(2) The Minister may by order repeal any such by-law. 1968-69, c. 6, s. 82.

Repeal of  
by-law



References  
to court of  
revision in  
other Acts  
R.S.O. 1970,  
cc. 255, 136

Provisions  
authorizing  
courts of  
revision in  
other Acts  
repealed

Assessment  
of machinery  
for pro-  
ducing power

**83.**—(1) Where in any general or special Act, except *The Local Improvement Act* and *The Drainage Act*, reference is made to a court of revision, such reference shall be deemed to be a reference to the Assessment Review Court established under this Act.

(2) Notwithstanding any general or special Act, any provision in any Act, except *The Local Improvement Act* and *The Drainage Act*, as to the constitution of a court of revision is repealed. 1968-69, c. 6, s. 84.

**84.** Notwithstanding any general or special Act, all machinery and equipment used for producing power for sale is liable to assessment for the percentage of the amount at which it is valued under this Act as follows:

1. In the year 1970 for taxation in the year 1971 at 80 per cent.
2. In the year 1971 for taxation in the year 1972 at 60 per cent.
3. In the year 1972 for taxation in the year 1973 at 40 per cent.
4. In the year 1973 for taxation in the year 1974 at 20 per cent. 1968-69, c. 6, s. 86.

FORM 1  
(Section 49)

AFFIDAVIT OR AFFIRMATION OF ASSESSMENT COMMISSIONER  
IN VERIFICATION OF ASSESSMENT ROLL

I, ..... of the .....  
....., make oath and say (or solemnly declare and affirm) as follows:

1. I have, according to the best of my information and belief, set down or caused to be set down in the assessment roll attached hereto all the real property liable to taxation situate in.....; and I have justly and truly assessed or caused to be assessed in accordance with *The Assessment Act*, each of the parcels of real property so set down and, according to the best of my information and belief, I have entered or caused to be entered the names of all owners or tenants assessable in respect of each such parcel.

2. I have estimated and set down or caused to be estimated and set down in the assessment roll, according to the best of my information and belief, the amounts assessable against every person named in the roll for business or otherwise under such Act.

3. According to the best of my knowledge and belief, I have entered or caused to be entered therein the name of every person entitled to be so entered under *The Assessment Act*, or any other Act; and I have not intentionally omitted or caused to be omitted from the roll the name of any person whom I knew or had good reason to believe to be entitled to be entered therein under any of such Acts.

4. I have entered or caused to be entered on the roll the date of delivery or transmission of the notice required by section 40 of *The Assessment Act*, and every such date is truly and correctly stated in the roll.

or

A certificate has been made and attached to the assessment roll certifying the date upon which the notices of assessment were delivered as required by section 40 of *The Assessment Act*.

(Strike out that which does not apply)

5. I have not entered or caused to be entered the name of any person at too low a rate in order to deprive such person of a vote, or at too high a rate in order to give such person a vote; and the amount for which each such person is assessed in the roll truly and correctly appears in the notice delivered or transmitted to him.

6. I have not entered or caused to be entered any name in the roll or improperly placed or caused to be placed any letter or letters opposite any name with intent to give a vote to any person not entitled to vote; and I have not intentionally omitted or caused to be omitted from the roll the name of any person whom I believe to be entitled to be placed therein; and I have not, in order to deprive any person of a vote, omitted or caused to be omitted from opposite the name of such person any letter or letters that I ought to have placed therein.

7. I have, according to the best of my information and belief, complied with or caused to be complied with all the provisions of *The Assessment Act*, or of any regulation, with regard to the preparation of the assessment roll.

Sworn (or solemnly declared and affirmed)  
before me.....  
at the .....  
in the.....  
of.....  
this.....  
day of.....  
19....



## CHAPTER 33

**The Assignment of Book Debts Act**

- 1.** In this Act, unless the context otherwise requires, Interpre-  
tation
- (a) “assignee” means a person to whom an assignment of book debts is made;
  - (b) “assignment” includes every legal and equitable assignment, whether absolute or by way of security, and every mortgage or other charge upon book debts;
  - (c) “assignor” means a person making an assignment of book debts;
  - (d) “book debts” means all such accounts and debts whether existing or future as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof;
  - (e) “creditors” means the creditors of the assignor, whether execution creditors or not, who become creditors before the registration of an assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the general benefit of creditors, a trustee under the *Bankruptcy Act* (Canada) and a liquidator of a company under the *Winding-up Act* (Canada) or under a provincial Act containing provisions for the winding-up of companies, without regard to the time when the creditor so suing becomes a creditor, or when the assignee, trustee or liquidator is appointed; R.S.C. 1952,  
cc. 14, 296
  - (f) “prescribed form” means a form provided or approved under this Act by the registrar;
  - (g) “proper officer” means the officer in whose office assignments are required to be registered in any registration district;
  - (h) “registered” means filed in accordance with this Act;
  - (i) “registrar” means the registrar of personal property security appointed under *The Personal Property Security Act*; R.S.O. 1970,  
c. 344
  - (j) “registration district” means a district established under this Act for the registration of assignments;

- (k) "subsequent purchasers" includes a person who in good faith for valuable consideration and without notice obtains by assignment an interest in book debts that have already been assigned;
- (l) "valuable consideration" includes,
  - (i) any consideration sufficient to support a simple contract,
  - (ii) an antecedent debt or liability. R.S.O. 1960, c. 24, s. 1; 1970, c. 42, s. 1.

Application  
of Act

**2.** This Act does not apply to,

- (a) an assignment of book debts, whether by way of specific or floating charge, made by a corporation engaged in a trade or business in Ontario and contained,
  - (i) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or of any other corporation, or
  - (ii) in any bonds, debentures, or debenture stock of the corporation as well as in the trust deed or other instrument securing the same, or in a trust deed or other instrument securing bonds, debentures or debenture stock of any other corporation, or
  - (iii) in any bonds, debentures or debenture stock or any series of bonds or debentures of the corporation not secured by a separate instrument;
- (b) an assignment of book debts due at the date of the assignment from specified debtors;
- (c) an assignment of debts growing due under specified contracts;
- (d) an assignment of book debts included in a transfer of a business made *bona fide* and for value;
- (e) an assignment of book debts included in an authorized assignment under the *Bankruptcy Act* (Canada). R.S.O. 1960, c. 24, s. 2.

R.S.C. 1952,  
c. 14

Require-  
ments as to  
assignment

**3.—(1)** Except as provided in this Act, every assignment of book debts made by a person engaged in a trade or business in Ontario is absolutely void as against the creditors of the assignor and as against the subsequent purchasers unless the assignment is,

- (a) in writing;
- (b) accompanied by an affidavit of an attesting witness or affidavits of attesting witnesses, of the execution thereof by the assignor, or by the assignors respectively, identifying the assignment and stating the date of execution by the assignor, or the respective dates of execution by



the assignors, as the case may be, and a further affidavit of the assignee or one of the several assignees, his or their agent, stating that the assignment was executed in good faith and for valuable consideration and not for the purpose of protecting the book debts therein mentioned against the creditors of the assignor or for the purpose of preventing such creditors from recovering any claims that they have against the assignor; and

- (c) registered, as hereinafter provided, together with the affidavits within thirty days of the execution of the assignment.

(2) If there are two or more assignors, the date of execution of the assignment shall be deemed to be the date of the execution by the assignor who last executes it. Two or more assignors

(3) Every assignment that is required to be in writing and to be registered under this Act, as against creditors and subsequent purchasers, takes effect only from the time of the registration of the assignment. To have effect from registration R.S.O. 1960, c. 24, s. 3.

**4.**—(1) Registration of an assignment under this Act shall be effected by filing the assignment together with such affidavits as are by this Act required, within thirty days from its execution, in the office of the proper officer of a registration district determined in accordance with the following rules: How registration to be effected

1. Where the assignor is a corporation incorporated under the laws of Ontario, in the registration district in which the head office or registered office is situate.
2. Where the assignor is an extra-provincial corporation having a head office or registered office in Ontario, in the registration district in which such head office or registered office is situate.
3. Where the assignor is an extra-provincial corporation not having a head office or registered office in Ontario, in the office of the clerk of the county court of the Judicial District of York at Toronto.
4. Where the assignor is not a corporation in the registration district in which the assignor carries on business at the time of the execution of the assignment.
5. Where the assignor is not a corporation, and at the time of the execution of the assignment carries on business in different registration districts, in any such registration district, and by filing a duplicate original of the assignment and affidavits, or a copy thereof, certified by the proper officer of that registration district, in each of the other registration districts.

Assignments  
to be  
numbered

(2) The proper officer shall cause every assignment filed in his office to be numbered, to be endorsed with a memorandum of the day, hour and minute of filing, and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the assignment with their descriptions and the dates of execution and registration of the assignment.

Where  
registration  
expires on  
Sunday

(3) Where the time for registration of an assignment or other document expires on a Sunday or other day on which the office in which the registration is to be made is closed, the registration, so far as regards the time of registration, is valid if made on the next following day on which the office is open. R.S.O. 1960, c. 24, s. 4, *amended*.

Discharge  
of  
assignment

**5.**—(1) An assignment registered under this Act may be discharged in whole or in part by the registration in the office in which it is registered of a certificate of discharge, signed by the assignee, his executors, administrators or assigns, and accompanied by an affidavit of an attesting witness of the execution thereof.

Noting  
discharge

(2) The proper officer in whose office a certificate of discharge accompanied by the affidavit of execution is registered shall note the fact of such discharge against each entry in the books of his office respecting the registration of the assignment, and shall make a like notation upon the assignment or copy registered in his office.

Noting  
discharge  
in two or  
more  
registration  
districts

(3) If there are two or more assignors residing in different registration districts affected by the discharge, the registration may be effected either by filing a duplicate or other original of the certificate of discharge and affidavit of execution in the office of the proper officer in each of the registration districts, or by filing the certificate of discharge and affidavit of execution in one of the registration districts and by filing a certificate of the entry of the discharge therein, signed by the proper officer of that registration district in the office of the proper officer of each of the other registration districts, and each proper officer shall make the like notations of the discharge in the records of his office as are provided by subsection 2.

Certificate  
of entry of  
discharge

(4) The proper officer in whose office the certificate of discharge is registered shall on request furnish a certificate of the entry of the discharge in the records of his office. R.S.O. 1960, c. 24, s. 5.

Inspection  
of records

**6.** Upon payment of the prescribed fee, every person has access to and is entitled to inspect the books of any proper officer containing records or entries of assignments or documents registered or filed under this Act, and no person shall be required, as a condition of his right thereto, to disclose the name of the person in

respect of whom such access or inspection is sought, and every proper officer shall, upon request accompanied by payment of the prescribed fee, produce for inspection any assignment or document so registered or filed in his office. R.S.O. 1960, c. 24, s. 6.

**7.** For the purpose of registration of assignments or other documents, each county and provisional judicial district in Ontario is a registration district and the clerk of the county or district court is the proper officer for the registration of assignments or documents in that registration district. R.S.O. 1960, c. 24, s. 7.

Registration districts and offices

**8.—**(1) Affidavits required by this Act may be taken and made before the proper officer of any registration district or before any person, whether in or outside Ontario, authorized to take affidavits in or concerning any cause, matter or thing pending in any court in Ontario.

Taking affidavits

(2) No registered assignment or other document shall be held to be defective or void solely on the ground that any affidavit required by this Act was taken and made before a solicitor for any of the parties to the assignment or other document, or before a partner of such solicitor, or before a clerk in the office of such solicitor. R.S.O. 1960, c. 24, s. 8.

Registration not affected by interest of solicitor

**9.** Any affidavit required by this Act to be made by an assignee may, in the event of his death, be made by his executor or administrator or by any of his next of kin or by the duly authorized agent of the executor or administrator. R.S.O. 1960, c. 24, s. 9.

Affidavit in case of death of assignee

**10.** Where the assignee is a corporation, every affidavit required or permitted by this Act to be made or given by the corporation as such assignee may be made or given by any officer, employee or agent of the corporation. R.S.O. 1960, c. 24, s. 10.

Affidavit on behalf of corporation

**11.** Any affidavit made for the purposes of this Act by the agent of an assignee, or of an executor or administrator, or by an officer, employee or agent of a corporation, shall state that the deponent is aware of the circumstances connected with the assignment, and that he has personal knowledge of the facts deposed to. R.S.O. 1960, c. 24, s. 11.

Affidavit of agent or officer

**12.** Where an assignment or certificate of discharge or other document has been executed by a corporation under this Act, no affidavit of an attesting witness is required. R.S.O. 1960, c. 24, s. 12.

No affidavit of execution by corporation

Power of judge to permit proof of execution otherwise than by affidavit of witness

**13.** In case, before the making of an affidavit of execution required by this Act, the attesting witness to an assignment, certificate of discharge or other document dies or leaves Ontario, or becomes incapable of making, or refuses to make, the affidavit, the judge of the county or district court may make an order permitting the registration of the assignment, certificate of discharge or other document, upon such proof of its due execution and attestation as the judge, by the order, requires and allows, and the order, or a copy thereof, shall be annexed to the assignment, certificate of discharge, or other document, as the case may be, and filed therewith, and the registration of the assignment, certificate of discharge, or other document under and in compliance with the terms of the order, has the like effect as the registration thereof with the affidavit of execution otherwise required by this Act. R.S.O. 1960, c. 24, s. 13.

Rectification of omissions and mis-statements

**14.** Subject to the rights of other persons accrued by reason of any omission or misstatement referred to in this section, the judge of the county or district court on being satisfied that the omission to register an assignment within the time prescribed by this Act, or any omission or misstatement in a document filed under this Act, was accidental or due to inadvertence or impossibility, or other sufficient cause, may, in his discretion extend the time for registration, or order the omission or misstatement to be rectified, on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing as the judge thinks fit to direct, and the order, or a copy thereof, made under this section shall be annexed to the assignment or copy thereof on file or tendered for registration and appropriate entries shall be made in the register. R.S.O. 1960, c. 24, s. 14.

Defects and irregularities

**15.** No defect or irregularity in the execution or attestation of an assignment or other document, and no defect, irregularity or omission in an affidavit accompanying an assignment or filed in connection with its registration, and no error of a clerical nature or in an immaterial or non-essential part of an assignment, or in any prescribed form relating thereto, invalidates or destroys the effect of the assignment or the registration thereof, unless in the opinion of the court or judge before whom a question relating thereto is tried such defect, irregularity, omission or error has actually misled a person whose interests are affected by the assignment. R.S.O. 1960, c. 24, s. 15; 1970, c. 42, s. 2.

Evidence of records

**16.** Copies of an assignment, certificate of discharge or other document registered or filed under this Act certified by the proper officer shall be received as *prima facie* evidence for all purposes as if the original assignment or document were produced and also as *prima facie* evidence of the execution of the original assignment or document according to the purport of such copy, and the



certificate of the proper officer shall also be received as *prima facie* evidence of the date and hour of registration and filing. R.S.O. 1960, c. 24, s. 16.

**17.** The proper officer is entitled for services under this Act to the fees prescribed by the regulations made under *The Personal Property Security Act*. 1967, c. 5, s. 1. Fees  
R.S.O. 1970,  
c. 344

**18.** An assignment shall not be registered on or after the 1st day of January, 1968, unless, in addition to the other requirements of this Act, it contains and legibly sets forth at least, Conditions  
precedent to  
registration

- (a) the name and address of the assignor;
- (b) the name and address of the assignee;
- (c) the date of execution of the assignment;
- (d) a description of the book debts assigned sufficient to identify them; and
- (e) the terms and conditions of the assignment. 1967, c. 5, s. 2, *part*; 1970, c. 42, s. 3 (1, 2).

**19.—(1)** Every registration made under this Act before the 1st day of January, 1968, expires on the anniversary date of the original registration next after the 1st day of January, 1971, unless a renewal statement in the prescribed form is registered before such anniversary date. 1967, c. 5, s. 2, *part*; 1970, c. 42, s. 4. Expiry  
of existing  
registrations

(2) Every registration made under this Act on or after the 1st day of January, 1968, expires three years after the date of registration, unless a renewal statement in the prescribed form is registered before the three-year period expires. Idem,  
future  
registrations

(3) The registration of a renewal statement extends the effect of the original registration for three years from the date of registration of the renewal statement, and so on from time to time. Effect of  
registration  
of renewal  
statement

(4) Where a renewal statement is not registered within the time prescribed by this section, a judge of a county or district court on application may, upon such terms and conditions and with such notice, if any, as he may order, extend the time for registration upon being satisfied that no interest of any other person will be prejudiced by such extension, but, in the event that it later appears that any such registration within the period so extended has prejudiced the rights that any person acquired before the registration, such registration shall be presumed not to have been done in conformity with this Act for the purpose of determining the rights that such person acquired before the registration. Extension  
of time



Idem (5) A copy of an order made under subsection 4 shall for the purposes of registration be attached to the renewal statement to which the order relates. 1967, c. 5, s. 2, *part*.

When instruments tendered for registration to be accompanied by statement

**20.** Where required by the regulations made under this Act, an assignment, certificate of discharge or other instrument shall, when tendered for registration as provided by this Act, be accompanied by a statement that sets forth on the prescribed form the information prescribed by the regulations made under this Act. 1970, c. 42, s. 5, *part*.

Regulations

**21.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional duties of the clerks of the county and district courts in connection with the registration of documents under this Act;
- (b) requiring or permitting a statement to accompany any instrument tendered for registration under this Act, prescribing the information to be contained in such statement and the manner of recording such information, and for requiring that the forms of statements to be used shall be those provided or approved by the registrar;
- (c) prescribing the form of renewal statements;
- (d) defining any expression used in the regulations;
- (e) providing that clause *d* of section 27 of *The Interpretation Act* does not apply to a form of statement prescribed under this Act;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1970, c. 42, s. 5, *part*.

R.S.O. 1970, c. 225

Uniform construction of Act

**22.** This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of the provinces that enact it. R.S.O. 1960, c. 24, s. 18.

R.S.O. 1970, c. 88, not affected

**23.** This Act does not apply to an instrument registered under *The Corporations Securities Registration Act*. R.S.O. 1960, c. 24, s. 19.

Repeal of Act

**24.** This Act is repealed on a day to be named by the Lieutenant Governor by his proclamation and thereafter any reference in any Act or regulation to *The Assignment of Book Debts Act* shall be deemed to be a reference to *The Personal Property Security Act*. 1967, c. 5, s. 3.

R.S.O. 1970 c. 344

## CHAPTER 34

### The Assignments and Preferences Act

**1.** In this Act, “judge” means a judge of the county or district court of the county or district in which the assignment is required to be registered. R.S.O. 1960, c. 25, s. 1.

Interpre-  
tation

**2.** Where a judge is disqualified to act in a matter arising under this Act, a judge of the county or district court of an adjoining county or district has jurisdiction to act in his place. R.S.O. 1960, c. 25, s. 2.

Where judge  
disqualified

**3.** Every confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment given by a person, being at the time in insolvent circumstances or unable to pay his debts in full or knowing himself to be on the eve of insolvency, voluntarily or by collusion with a creditor with intent thereby to defeat, hinder, delay or prejudice his creditors wholly or in part, or to give one or more of his creditors a preference over his other creditors or over any one or more of them, is void as against the creditors of the person giving the same and is ineffectual to support any judgment or execution. R.S.O. 1960, c. 25, s. 3.

Nullity of  
certain con-  
fessions of  
judgment,  
etc.

**4.—(1)** Subject to section 5, every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes or securities, or of shares, dividends, premiums or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances or is unable to pay his debts in full, or knows that he is on the eve of insolvency, with intent to defeat, hinder, delay or prejudice his creditors, or any one or more of them, is void as against the creditor or creditors injured, delayed or prejudiced.

Nullity of  
gifts, trans-  
fers etc.,  
made with  
intent to  
defeat or  
prejudice  
creditors

**(2)** Subject to section 5, every such gift, conveyance, assignment or transfer, delivery over or payment made by a person being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, to or for a creditor with the intent to give such creditor an unjust preference over his other creditors or over any one or more of them is void as against the creditor or creditors injured, delayed, prejudiced or postponed.

Unjust  
preferences

When there is presumption of intention if transaction has effect of unjust preference

(3) Subject to section 5, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, in and with respect to any action or proceeding that, within sixty days thereafter, is brought, had or taken to impeach or set aside such transaction, be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning of this Act whether it be made voluntarily or under pressure.

Idem

(4) Subject to section 5, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, if the debtor within sixty days after the transaction makes an assignment for the benefit of his creditors, be presumed *prima facie* to have been made with the intent mentioned in subsection 2, and to be an unjust preference within the meaning of this Act whether it be made voluntarily or under pressure.

"Creditor" for certain purposes to include surety and endorser

(5) The word "creditor" in the fifth line of subsection 2, in the second line of subsection 3, and in the second line of subsection 4, includes any surety and the endorser of any promissory note or bill of exchange who would upon payment by him of the debt, promissory note or bill of exchange, in respect of which such suretyship was entered into or such endorsement was given, become a creditor of the person giving the preference within the meaning of those subsections. R.S.O. 1960, c. 25, s. 4.

Assignments for benefit of creditors and *bona fide* sales, etc., protected

**5.—**(1) Nothing in section 4 applies to an assignment made to the sheriff of the county or district in which the debtor resides or carries on business or, with the consent of a majority of his creditors having claims of \$100 and upwards computed according to section 24, to another assignee resident in Ontario, for the purpose of paying rateably and proportionately and without preference or priority all the creditors of the debtor their just debts, nor to any *bona fide* sale or payment made in the ordinary course of trade or calling to an innocent purchaser or person, nor to any payment of money to a creditor, nor to any *bona fide* conveyance, assignment, transfer or delivery over of any goods or property of any kind, that is made in consideration of a present actual *bona fide* payment in money, or by way of security for a present actual *bona fide* advance of money, or that is made in consideration of a present actual *bona fide* sale or delivery of goods or other property where the money paid or the goods or other property sold or delivered bear a fair and reasonable relative value to the consideration therefor.

Transfer to creditor of consideration for sale invalid

(2) In the case of a valid sale of goods or other property and payment or transfer of the consideration or part thereof by the purchaser to a creditor of the vendor under circumstances that would render void such a payment or transfer by the debtor

personally and directly, the payment or transfer, even though valid as respects the purchaser, is void as respects the creditor to whom it is made.

(3) Every assignment for the general benefit of creditors that is not void under section 4, but is not made to the sheriff nor to any other person with the prescribed consent of creditors, is void as against a subsequent assignment that is in conformity with this Act, and is subject in other respects to the provisions thereof until and unless a subsequent assignment is executed in accordance therewith.

Effect of assignment not in accordance with Act

(4) Where a payment has been made that is void under this Act and any valuable security was given up in consideration of the payment, the creditor is entitled to have the security restored or its value made good to him before, or as a condition of, the return of the payment.

Security given up upon void payment to be returned

(5) Nothing in this Act, Exceptions:

- (a) affects *The Wages Act* or prevents a debtor providing for payment of wages due by him in accordance with that Act; wages R.S.O. 1970, c. 486
- (b) affects any payment of money to a creditor where the creditor, by reason or on account of the payment, has lost or been deprived of, or has in good faith given up, any valid security that he held for the payment of the debt so paid unless the security is restored or its value made good to the creditor; surrender of securities
- (c) applies to the substitution in good faith of one security for another security for the same debt so far as the debtor's estate is not thereby lessened in value to the other creditors; or exchange of securities
- (d) invalidates a security given to a creditor for a pre-existing debt where, by reason or on account of the giving of the security, an advance in money is made to the debtor by the creditor in the *bona fide* belief that the advance will enable the debtor to continue his trade or business and to pay his debts in full. R.S.O. 1960, c. 25, s. 5. certain securities to be valid

**6.** No person, other than a permanent and *bona fide* resident of Ontario, shall be assignee under an assignment within this Act, nor shall any assignee delegate his duties as assignee to or appoint as deputy any person who is not a permanent and *bona fide* resident of Ontario, and no charge shall be made or recoverable against the assignor or his estate for any services or other expenses of any such assignee, deputy or delegate of any assignee who is not a permanent and *bona fide* resident of Ontario. R.S.O. 1960, c. 25, s. 6.

Residence of assignee



Form of  
assignment  
for general  
benefit of  
creditors

**7.** Every assignment made under this Act for the general benefit of creditors, if the property is described in the words "all my personal property that may be seized and sold under execution and all my real estate, credits and effects", or in words to the like effect, vests in the assignee all the real and personal estate, rights, property, credits and effects, whether vested or contingent, belonging to the assignor at the time of the assignment, except such as are by law exempt from seizure or sale under execution, subject, however, as regards land, to *The Registry Act* and *The Land Titles Act*. R.S.O. 1960, c. 25, s. 7.

R.S.O. 1970,  
cc. 409, 234

All assign-  
ments for  
general  
benefit of  
creditors to  
be subject  
to this Act

**8.** Every assignment for the general benefit of creditors, whether it is or is not expressed to be made under or in pursuance of this Act and whether the assignment does or does not include all the real and personal estate of the assignor, vests the estate, whether real or personal or partly real and partly personal, thereby assigned in the assignee therein named for the general benefit of creditors, and the assignment and the property thereby assigned is subject to all the provisions of this Act, and the same applies to the assignee named in such assignment. R.S.O. 1960, c. 25, s. 8.

How claims  
are to rank  
where  
different  
estates

**9.** If an assignor executing an assignment under this Act for the general benefit of his creditors owes debts both individually and as a member of a partnership or as a member of different partnerships, the claims rank first upon the estate by which the debts they represent were contracted and only rank upon the other or others after all the creditors of such other estate or estates have been paid in full. R.S.O. 1960, c. 25, s. 9.

Appoint-  
ment of  
substituted  
assignee

**10.**—(1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards may substitute for the sheriff, or for an assignee under an assignment to which subsection 3 of section 5 applies, a person residing in the county or district in which the assignor resided or carried on business at the time of the assignment.

Removal,  
substitution  
or addition

(2) An assignee may be removed and another substituted or an additional assignee appointed by the judge.

Death of  
assignee

(3) Where an assignee dies, a new assignee may be appointed in the manner provided by subsection 2.

Effect on  
estate

(4) Where a new or additional assignee is appointed, the estate vests in him or in him jointly with his co-assignee without a conveyance or transfer, and he shall register a verified copy of the resolution of the creditors or of the order appointing him in the office in which the assignment was registered.

Registration

(5) A verified copy of the resolution or of the order may be registered in the proper registry or land titles office and the registration thereof has the same effect as the registration of a conveyance. R.S.O. 1960, c. 25, s. 10.



**11.**—(1) Except as otherwise provided in this section, the assignee has the exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors or in violation of this Act.

Rights of assignee

(2) Where a creditor desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the estate and the assignee under the authority of the creditors or inspectors refuses or neglects to take such proceeding after being required so to do, the creditor has the right to obtain an order of the judge authorizing him to take the proceeding in the name of the assignee, but at his own expense and risk, upon such terms and conditions as to indemnity to the assignee as the judge prescribes, and thereupon any benefit derived from the proceeding, to the extent of his claim and full costs, belongs exclusively to the creditor instituting the proceeding for his benefit, but, if before such order is obtained the assignee signifies to the judge his readiness to institute the proceeding for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the estate. R.S.O. 1960, c. 25, s. 11.

Right of creditor in certain cases if assignee refuses

**12.**—(1) In the case of a gift, conveyance, assignment or transfer of any property, real or personal, that is invalid against creditors, if the person to whom the gift, conveyance, assignment or transfer was made has sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in an action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the gift, conveyance, transfer, delivery or payment was made, and such right to seize and recover belongs not only to an assignee for the general benefit of the creditors of the debtor but, where there is no such assignment, to all creditors of the debtor.

Following proceeds of property fraudulently transferred

(2) Where there is no assignment for the benefit of creditors and the proceeds are of such a character as to be seizable under execution, they may be seized under the execution of any creditor and are subject to *The Creditors' Relief Act*.

Taking proceeds under execution  
R.S.O. 1970, c. 97

(3) Where there is no assignment for the benefit of creditors and whether the proceeds are or are not of such a character as to be seizable under execution, an action may be brought therefor by a creditor, whether an execution creditor or not, on behalf of himself and all other creditors, or such other proceedings may be taken as are necessary to render the proceeds available for the general benefit of the creditors.

Creditor suing on behalf of himself and other creditors

(4) This section does not apply as against innocent purchasers of the property. R.S.O. 1960, c. 25, s. 12.

Protection of innocent purchasers

Assignments  
take pre-  
cedence over  
attachments,  
etc.

**13.** An assignment for the general benefit of creditors under this Act takes precedence over attachments, garnishee orders, judgments, executions not completely executed by payment, and orders appointing receivers by way of equitable execution subject to the lien, if any, of an execution creditor for his costs where there is but one execution in the sheriff's hands or to the lien, if any, for the costs of the creditor who has the first execution in the sheriff's hands. R.S.O. 1960, c. 25, s. 13.

Waiver of  
claims by  
Crown

**14.** Where the Crown has a claim in respect of estreated bail against the estate of a person who makes an assignment for the benefit of his creditors, the Lieutenant Governor in Council may waive any preference in respect of such claim that the Crown has against such estate by virtue of its prerogative right. R.S.O. 1960, c. 25, s. 14.

Amendment  
by judge

**15.** No advantage shall be obtained by any creditor by reason of any mistake, defect or imperfection in an assignment under this Act for the general benefit of creditors if the assignment can be amended or corrected, and any such mistake, defect or imperfection shall be amended by the judge on the application of the assignee or of any creditor of the assignor, and on such notice to other parties concerned as the judge thinks reasonable, and the amendment, when made, shall be related back to the date of the assignment, but not so as to prejudice the rights of innocent purchasers. R.S.O. 1960, c. 25, s. 15.

Publishing  
notice of  
assignment

**16.—(1)** A notice of the assignment shall, forthwith after the delivery thereof to him or his assent thereto, be published by the assignee at least once in *The Ontario Gazette* and not less than twice in a newspaper having a general circulation in the county or district in which the property assigned is situate.

Registering  
assignment

(2) The assignment or a copy thereof shall also, within five days from the execution thereof, be registered by the assignee, together with an affidavit of a witness thereto of the due execution of the assignment, in the office of the clerk of the county or district court of the county or district in which the assignor, if a resident in Ontario, resided at the time of the execution thereof, or if not a resident then in the office of the clerk of the county or district court of the county or district where the personal property so assigned or where the principal part thereof is at the time of the execution of the assignment, and the clerk shall number and enter the assignments and endorse thereon the time of receiving them, and they shall be open for the inspection of all persons desiring to inspect them.

Fees of  
clerk  
R.S.O. 1970,  
c. 45

(3) The clerk is entitled to the same fees for services as if the assignment had been registered under *The Bills of Sale and Chattel Mortgages Act*.

(4) For the purposes of subsection 2, the Provisional County of Haliburton shall be deemed part of the County of Victoria. R.S.O. 1960, c. 25, s. 16.

**17.**—(1) If the notice is not published as provided by section 16 or if the assignment is not registered within five days from the delivery thereof to the assignee or his assent thereto, the assignee is liable to a penalty of \$10 for each day during which the default continues.

Haliburton  
Penalty for neglecting publication or registration

(2) The burden of proving the time of such delivery or assent is upon the assignee.

Onus of proof

(3) Where the assignment is made to a sheriff, he shall not incur the penalty unless he has been paid or tendered the cost of advertising and of registering the assignment, nor is he bound to act under the assignment until his costs in that behalf are paid or tendered to him. R.S.O. 1960, c. 25, 17.

Liability of sheriff

**18.** If the assignment is not registered or notice thereof is not published, the judge may, upon the application of any person interested in the assignment, by order enforce the registration of the assignment or the publication of the notice. R.S.O. 1960, c. 25, s. 18.

Compelling publication and registration

**19.** The omission to publish or register as required by section 16 does not, nor does any irregularity in the publication of registration, invalidate the assignment. R.S.O. 1960, c. 25, s. 19.

Omission to publish, etc.

**20.**—(1) It is the duty of the assignee immediately to inform himself, by reference to the assignor and his records of account, of the names and residences of the assignor's creditors, and, within five days from the date of the assignment, to call a meeting of the creditors for the appointment of inspectors and the giving of directions with reference to the disposal of the estate by sending by registered mail to every creditor known to him a notice calling the meeting to be held in his office or some other convenient place to be named in the notice not later than twelve days after the mailing thereof, and by advertisement in *The Ontario Gazette*.

Duty to call meeting of creditors

(2) All other meetings to be held shall be called in like manner. R.S.O. 1960, c. 25, s. 20.

Other meetings

**21.**—(1) The creditors at any meeting may appoint one or more inspectors who shall superintend and direct the proceedings of the assignee in the management and winding up of the estate, and the creditors may also at any subsequent meeting for that purpose revoke the appointment of any inspector.

Appointment of inspectors

(2) Where the appointment of an inspector is revoked or where an inspector dies, resigns his office or leaves Ontario, the creditors at any meeting may appoint another inspector to take his place.

Appointment of another inspector

Inspector  
not to  
purchase  
assets

(3) An inspector shall not directly or indirectly purchase any part of the stock in trade, debts or other assets of the assignor. R.S.O. 1960, c. 25, s. 21.

Meeting of  
creditors by  
request of  
majority  
thereof

**22.**—(1) In the case of a request in writing signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed according to section 24, it is the duty of the assignee, within two days after receiving the request, to call a meeting of the creditors for a day not later than twelve days after he receives the request, and in case of default the assignee shall incur a penalty of \$25 for every day after the expiration of the time limited for calling the meeting until it is called.

Power of  
judge

(2) In case a sufficient number of creditors do not attend the meeting mentioned in section 20 or fail to give directions with reference to the disposal of the estate, the judge may give such directions as he considers necessary for that purpose. R.S.O. 1960, c. 25, s. 22.

Voting at  
meeting

**23.** At any meeting of creditors the creditors may vote in person or by proxy authorized in writing, but no creditor whose vote is disputed is entitled to vote until he has filed with the assignee an affidavit in proof of his claim, stating the amount and nature thereof. R.S.O. 1960, c. 25, s. 23.

Scale of  
votes

**24.**—(1) Subject to section 10, all questions at meetings of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:

1. For every claim of or over \$100 and not exceeding \$200, one vote.
2. For every claim over \$200 and not exceeding \$500, two votes.
3. For every claim over \$500 and not exceeding \$1,000, three votes.
4. For every additional \$1,000 or fraction thereof, one vote.

Upon claims  
acquired  
after  
assignment

(2) No person is entitled to vote on a claim acquired after the assignment unless the entire claim is acquired, but this does not apply to persons acquiring notes, bills or other securities upon which they are liable.

Casting  
vote

(3) In the case of a tie, the assignee or, if there are two assignees, the assignee nominated for that purpose by the creditors or by the judge, if none has been nominated by the creditors, has a casting vote.



(4) Every creditor in his proof of claim shall state whether he holds any security for his claim or any part thereof, and if such security is on the estate of the assignor or on the estate of a third person for whom the assignor is only secondarily liable, he shall put a specified value thereon and the assignee, under the authority of the creditors, may either consent to the creditor ranking for the claim after deducting such valuation or he may require from the creditor an assignment of the security at an advance of 10 per cent upon the specified value to be paid out of the estate as soon as the assignee has realized the security, and in such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor is the amount for which he shall rank and vote in respect of the estate.

Valuing securities

(5) If a creditor's claim is based upon a negotiable instrument upon which the assignor is only indirectly or secondarily liable and that is not mature or exigible, the creditor shall be considered to hold security within the meaning of this section and shall put a value on the liability of the person primarily liable thereon as being his security for the payment thereof, but after the maturity of such liability and its non-payment he is entitled to amend his claim and revalue his security. R.S.O. 1960, c. 25, s. 24 (1-5).

Right to revalue in certain cases

(6) Where a person claiming to be entitled to rank on the estate holds security for his claim, or any part thereof, of such a nature that he is required by this Act to value the security and he fails to value it, the judge, upon summary application by the assignee or by any other person interested in the estate, of which application at least three days notice shall be given to the claimant, may order that, unless a specified value be placed on the security and the assignee is notified in writing within a time to be limited by the order, the claimant is, in respect of the claim, or the part thereof for which the security is held in case the security is held for part only of the claim, wholly barred of any right to share in the proceeds of the estate.

Where creditor holding security fails to value it

(7) If a specified value is not placed on the security or the assignee is not notified in writing according to the exigency of the order or within such further time as the judge by subsequent order allows, the claim, or the part, as the case may be, is wholly barred as against the estate, but without prejudice to the liability of the assignor therefor. R.S.O. 1960, c. 25, s. 24 (6, 7), *amended*.

Consequences of neglect of order

**25.**—(1) Every person claiming to be entitled to rank on the estate shall furnish to the assignee particulars of his claim proved by affidavit and such vouchers as the nature of the case admits.

Proof of claim

(2) Where a person claiming to be entitled to rank on the estate does not, within a reasonable time after receiving notice of the assignment and of the name and address of the assignee, furnish to the assignee satisfactory proofs of his claim as provided by this

Limiting time for proof of claim



and the preceding sections, the judge upon summary application by the assignee or by any other person interested in the estate, of which application at least three days notice shall be given to the claimant, may order that unless the claim is proved to the satisfaction of the judge within a time to be limited by the order, the claimant shall be deemed to be no longer a creditor of the estate and is wholly barred of any right to share in the proceeds thereof.

Consequences of neglect to prove claim

(3) If the claim is not so proved within the time so limited or within such further time as the judge by subsequent order allows, it is wholly barred and the assignee is at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the assignor therefor.

Not to interfere with R.S.O. 1970, c. 470

(4) Subsections 2 and 3 do not interfere with the protection afforded to assignees by section 53 of *The Trustee Act*.

Creditor may prove claim not due

(5) A person whose claim has not accrued due is nevertheless entitled to prove under the assignment and to vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time that has to run until the claim becomes due. R.S.O. 1960, c. 25, s. 25.

Contestation of claim

**26.**—(1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate proof of his claim, notice of contestation of the claim may be served by the assignee upon the claimant.

Limitation

(2) Within thirty days after the receipt of the notice, or within such further time as the judge allows, an action shall be brought by the claimant against the assignee to establish the claim, and a copy of the writ in the action, or of the summons in case the action is brought in a small claims court, shall be served on the assignee, and in default of such action being brought and writ or summons served within the time limited the claim to rank on the estate is forever barred.

Service on solicitor of assignee

(3) The notice by the assignee shall contain the name and place of business of a solicitor upon whom service of the writ or summons may be made, and service upon him shall be deemed sufficient service.

Right of assignee to compel plaintiff to proceed with action against assignor

(4) Where prior to the assignment an action has been commenced against the assignor and is pending at the time of the assignment, the assignee may, by notice served upon the plaintiff in the action, require him to proceed, and he is bound to proceed in that action to establish his claim, instead of bringing an action against the assignee as provided for by subsection 2, and the plaintiff may thereupon apply to the court in which the action is brought for an order adding the assignee as a party defendant in

the action, and the assignee may be so added upon such terms as to the costs that may be subsequently incurred as the court or a judge thereof, or the judge making the order, directs. R.S.O. 1960, c. 25, s. 26.

**27.**—(1) If the assignee is satisfied with the proof adduced in support of a claim but the assignor disputes it, the assignor shall do so by notice in writing to the assignee, stating the grounds upon which he disputes the claim, and the notice shall be given within ten days after the assignor is notified in writing by the assignee that he is satisfied with the proof adduced and not afterwards unless by leave of the judge.

Procedure where assignee is satisfied but assignor desires to dispute

(2) If upon receiving such notice of dispute the assignee does not consider it proper to require the claimant to bring an action to establish his claim, he shall notify the assignor in writing of the fact, and the assignor may thereupon, and within ten days of his receiving such notice, apply to the judge for an order requiring the assignee to serve a notice of contestation.

Where assignee does not require action to be brought

(3) The order shall be made only if, after notice to the assignee, the judge is of opinion that there are good grounds for contesting the claim.

Conditions

(4) If the assignor does not make such an application, the decision of the assignee is, as against him, final and conclusive.

Where decision of assignee final

(5) If upon the application the claimant consents in writing, the judge may in a summary manner decide the question of the validity of the claim.

Decision of judge on validity of claim

(6) If an action is brought by the claimant against the assignee, the assignor may intervene at the trial either personally or by counsel for the purpose of calling and examining or cross-questioning witnesses. R.S.O. 1960, c. 25, s. 27.

Intervention by assignor at trial

**28.**—(1) No property or assets of an estate assigned under this Act shall be removed out of Ontario without the order of the judge, and the proceeds of the sale of any such property or assets and all moneys received on account of any estate shall be deposited by the assignee in a chartered bank in Ontario and shall not be withdrawn or removed without the order of the judge, except in payment of dividends and charges incidental to winding up the estate.

Retention of assets in Ontario and deposit of moneys

(2) An assignee or any person acting in his stead who contravenes this section is liable to a penalty of \$500.

Penalty

(3) One-half of the penalty goes to the person suing therefor and the other half belongs to the estate.

Application of penalty

Imprisonment in default of payment of penalty

(4) In default of payment of the penalty and all costs incurred in an action or proceeding for the recovery thereof within the time limited by the judgment, the court in which the action is brought may order that such assignee or person may be imprisoned for any period not exceeding thirty days, and such assignee or person is disqualified from acting as assignee of any estate while the default continues. R.S.O. 1960, c. 25, s. 28.

Accounts to be kept accessible

**29.** Upon the expiration of one month from the first meeting of creditors or as soon as may be thereafter and afterwards from time to time at intervals of not more than three months, the assignee shall prepare, and keep constantly accessible to the creditors, accounts and statements of his doings as assignee and of the position of the estate. R.S.O. 1960, c. 25, s. 29.

Set-off

**30.** The law of set-off applies to all claims made against the estate, and also to all actions instituted by the assignee for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off is affected by this or any other Act respecting frauds or fraudulent preferences. R.S.O. 1960, c. 25, s. 30.

Dividends, when to be paid

**31.** As large a dividend as can be paid with safety shall be paid by every assignee within twelve months from the date of the assignment, and earlier if required by the inspectors, and thereafter a further dividend shall be paid every six months and more frequently if required by the inspectors, until the estate is wound up and disposed of. R.S.O. 1960, c. 25, s. 31.

Notice of dividend sheet

**32.** As soon as a dividend sheet is prepared, notice thereof shall be given by registered mail to each creditor, enclosing an abstract of receipts and disbursements, showing what interest has been received by the assignee for money in his hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor, and after the expiry of eight days from the date of mailing the notice, abstract and dividend sheet, dividends on all claims not objected to within that period shall be paid. R.S.O. 1960, c. 25, s. 32.

Distributing moneys and determining claims  
R.S.O. 1970, c. 97

**33.**—(1) The assignee may take the proceedings authorized by section 32 of *The Creditors' Relief Act* to be taken by a sheriff, and in that case sections 32 and 33 of that Act apply *mutatis mutandis* to proceedings for the distribution of money and determination of claims arising under an assignment made under this Act, with the substitution of "assignee" for "sheriff", but this section does not relieve the assignee from mailing to each creditor the abstract and other information required by section 32 of this Act to be sent to creditors so far as the same is not contained in the list sent by him under section 32 of *The Creditors' Relief Act*.

(2) A judge of the county or district court of the county or district where the assignment is required to be registered is the judge to whom applications under this section shall be made. R.S.O. 1960, c. 25, s. 33.

To what judge application to be made

**34.** The assignee shall receive such remuneration as is voted to him by the creditors at a meeting called for the purpose after the first dividend sheet has been prepared, or by the inspectors, in case the creditors fail to provide therefor, subject to review by the judge upon complaint of the assignee or of any creditor. R.S.O. 1960, c. 25, s. 34.

Remuneration of assignee

**35.** Where the remuneration of the assignee has not been fixed under section 34 before the final dividend, the assignee may insert in the final dividend sheet, and retain as his remuneration, a sum not exceeding 5 per cent of the cash receipts, subject to review by the judge, but no application by the assignee to review the allowance shall be entertained unless the question of his remuneration has been brought before a meeting of creditors competent to decide the same before the preparation of the final dividend sheet. R.S.O. 1960, c. 25, s. 35.

Where remuneration not fixed before the final dividend

**36.**—(1) An assignee shall not make any payment or allowance to an inspector beyond his actual and necessary travelling expenses in and about his duties as inspector except under the authority of a resolution of the creditors passed at a meeting regularly called fixing the amount thereof, and in the notice calling the meeting the fixing of the remuneration of the inspectors shall be specially mentioned as one of the subjects to be brought before the meeting.

Remuneration of inspectors

(2) An inspector shall not be allowed more than \$4 a day besides his actual travelling expenses. R.S.O. 1960, c. 25, s. 36.

Limit of allowance

**37.**—(1) Upon a resolution passed by a majority vote of the creditors present or represented at a meeting of creditors regularly called, or upon the written request of a majority of the inspectors, or upon an order made by the judge, the assignee may examine upon oath before a master, local master, local registrar, judge of the county or district court, special examiner, official referee or any other person named in the order, the assignor or any person who is or has been his agent, clerk, servant, officer or employee of any kind, touching the estate and effects of the assignor, and as to the property and means he had when the earliest of his debts or liabilities existing at the date of the assignment was incurred, and as to the property and means he still has of discharging his debts and liabilities, and as to the disposal he has made of any property since contracting such debt or incurring such liability, and as to any and what debts are owing to him, and the person examined may be required by the assignee to produce upon such examination any property, book, document or paper in his custody, power or control.

Examination of assignor or employees



Where  
examination  
to take  
place

(2) Unless otherwise ordered, the examination shall take place in the county or district in which the person to be examined resides.

Procedure  
on  
examination

(3) The rules and procedure of the Supreme Court as to the examination of a judgment debtor, or any clerk or employee or former clerk or employee of a judgment debtor, so far as may be, apply to an examination held under subsection 1. R.S.O. 1960, c. 25, s. 37.

Examination  
of persons  
having  
custody of  
property of  
assignor

**38.** Any person who has or is believed or suspected of having in his possession or power any book, document or paper of any kind relating in whole or in part to the assignor, his dealings or property and who refuses or fails to produce such book, document or paper for the inspection of the assignee within four days after demand in writing by the assignee may by order of the judge be examined before the judge or any of the officers mentioned in section 37 touching such book, document or paper, and he is subject to the same consequences in the case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make such production as is mentioned in section 40. R.S.O. 1960, c. 25, s. 38.

When assign-  
or does not  
attend or  
refuses to  
answer  
questions

**39.** If the assignor does not attend for examination and does not allege a sufficient excuse for not attending or, if attending, he refuses to disclose his property or his transactions respecting his property or does not make satisfactory answers respecting his property or if it appears from such examination that the assignor has concealed or made away with his property in order to defeat or defraud his creditors or any of them, the judge may order the assignor to be committed to a correctional institution in the county or district in which he resides for any period not exceeding twelve months. R.S.O. 1960, c. 25, s. 39, *amended*.

Compelling  
attendance  
and  
production  
of books

**40.** Any person, other than the assignor, liable to be examined is subject to the same consequences in case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make production as a witness in an action in the Supreme Court. R.S.O. 1960, c. 25, s. 40.

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CHAPTER 35

The Athletics Control Act

1. In this Act,

(a) “Commissioner” means the Athletics Commissioner;

(b) “Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;

(c) “official” includes an examiner, judge, master of ceremonies, legally qualified medical practitioner, referee and timekeeper;

(d) “person” includes a corporation, association, club and any unincorporated organization;

(e) “professional contest or exhibition” means a professional contest or exhibition of baseball, bicycle riding, boxing, dancing, golf, hockey, jaialai, lacrosse, motorcycle riding, physical prowess whether by contortion or otherwise, rowing, rugby, running, skating whether speed skating or figure skating, soccer, swimming, tennis, wrestling or any professional contest or exhibition of any other sport or game designated by the Lieutenant Governor in Council. R.S.O. 1960, c. 26, s. 1.

Interpretation
2. The administration of this Act is under the direction and control of the Minister. R.S.O. 1960, c. 26, s. 2.

Direction and control
3. An Athletics Commissioner shall be appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 26, s. 3.

Athletics Commissioner
- 4.—(1) The Commissioner may issue licences under this Act and the regulations.

(2) The Commissioner shall assist, promote and encourage amateur sport in community centres under *The Community Centres Act* and associations of amateur sportsmen.

(3) The Commissioner is responsible for the supervision of professional contests and exhibitions and, under the direction and control of the Minister, shall assist in the administration of this Act and the regulations. 1970, c. 52, s. 1.

Functions of Commissioner

Idem R.S.O. 1970, c. 73

Idem

Tax

**5.**—(1) Every person conducting a professional boxing or wrestling contest or exhibition shall pay to the Minister an amount not less than 1 per cent and not more than 5 per cent of the gross receipts in respect of such contest or exhibition as shall be determined by the Minister with the approval of the Lieutenant Governor in Council.

Reduction  
of tax

(2) Where a professional contest or exhibition is not the sole or main attraction offered at a presentation or exhibition for which admission is charged, the Minister may accept such amount as in the circumstances he considers proper in lieu of the percentage of the gross receipts payable under subsection 1.

Idem

(3) If the Minister is satisfied that the entire proceeds of a professional contest or exhibition are for charitable purposes, he may accept such amount as in the circumstances he considers proper in lieu of the percentage of the gross receipts payable under subsection 1.

Remission  
of tax

(4) Every person conducting a professional contest or exhibition shall, within three days of the holding of such contest or exhibition, remit to the Minister by registered mail the amount payable under subsection 1.

Offence

(5) Every person who conducts or participates in conducting or holding a professional contest or exhibition and who fails to comply with this section, in addition to the payment of the amounts provided in subsection 1, is guilty of an offence and on summary conviction is liable to a fine of not less than an amount equal to such amounts. R.S.O. 1960, c. 26, s. 4.

Impounding  
of boxing  
and  
wrestling  
purposes, etc.

**6.**—(1) Where the Commissioner or any other person charges,

- (a) that a boxing or wrestling contest or exhibition was conducted in contravention of this Act or the regulations; or
- (b) that an agreement, contract or undertaking with respect to any boxing or wrestling contest or exhibition was entered into in contravention of this Act or the regulations; or
- (c) that the conduct of a person connected with or participating in a boxing or wrestling contest or exhibition was in contravention of this Act or the regulations or was not in the interest of boxing or wrestling,

the Commissioner may order any person to deliver to him forthwith any moneys that were paid or may be payable in connection with such contest or exhibition and such moneys shall be impounded by him pending the disposition of the charge.

(2) The Minister may direct the Commissioner or any other person to hold an investigation into the charge so made and to report thereon to him and, if in his opinion the charge has been proven, he may declare the moneys impounded to be forfeited, and such moneys thereupon become the property of the Crown.

Investigation

(3) If the Minister does not direct an investigation or if he is of the opinion that the charge has not been proven, he shall order any moneys impounded to be released.

Release of impounded moneys

(4) Every person who fails to deliver moneys to the Commissioner in pursuance of an order made under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than an amount equal to twice the amount of the moneys ordered to be delivered. R.S.O. 1960, c. 26, s. 5.

Offence

**7.** The Minister may direct the Commissioner or any other person to hold an investigation,

Investigations

(a) where a branch of the Amateur Athletic Union of Canada in Ontario or a league, body or person connected with amateur sport operating in Ontario requests the Minister to cause an investigation to be held into any matter that the branch, league, body or person considers should be investigated in the interest of amateur sport in Ontario; or

(b) upon any matter that is considered by the Minister to be in the public interest. 1970, c. 52, s. 2.

**8.** For the purposes of an investigation under section 6 or 7, the Commissioner or other person holding such investigation possesses all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 26, s. 7.

Powers on investigation

R.S.O. 1970, c. 379

**9.** The moneys received by the Minister under section 5, together with all moneys received from licence and permit fees, fines and other pecuniary penalties and the impounding of purses or other remuneration, shall be paid into the Consolidated Revenue Fund. R.S.O. 1960, c. 26, s. 8.

Payment into Consolidated Revenue Fund

**10.—(1)** Where moneys payable to the Minister under this Act or the regulations in respect of a professional contest or exhibition or a contest or exhibition of amateur boxing or wrestling are not received by the Minister within one week of the holding of such contest or exhibition, the Minister may direct that the building or other place where such contest or exhibition was held shall not be used for the holding of any professional contest or exhibition or any contest or exhibition of amateur boxing or wrestling until such moneys have been paid to the Minister.

Prohibiting use of building

## Offence

(2) Where notice in writing of a direction made under subsection 1 is served upon or sent by registered mail to the owner, lessee or other person having control over the building or other place, such owner, lessee or other person is guilty of an offence and on summary conviction is liable to a fine of not less than \$20 and not more than \$100 in respect of every professional contest or exhibition or contest or exhibition of amateur boxing or wrestling held in such building or at such place during the continuance in force of such direction. R.S.O. 1960, c. 26, s. 9.

## Contracts to manage professional boxers and wrestlers

**11.** A contract or agreement entered into for the management of a person taking part in professional boxing or wrestling contests or exhibitions, or for the taking part in any such contest or exhibition, is not valid or of any force or effect unless it is in writing signed by the parties thereto and approved by the Commissioner, and the Commissioner may at any time, by notice in writing to the parties, revoke any approval given by him and thereupon the contract or agreement is for all purposes void and of no effect. R.S.O. 1960, c. 26, s. 10.

## Powers of Commissioner

**12.**—(1) The Commissioner may,

- (a) delegate to any person any of the powers or duties conferred or imposed upon him by this Act or the regulations;
- (b) designate the officials for any professional contest or exhibition or any amateur boxing or wrestling contest or exhibition and fix the fees that shall be paid to them by the person holding the contest or exhibition. R.S.O. 1960, c. 26, s. 11, (1); 1970, c. 52, s. 3.

## Admission to contests and exhibitions

(2) The Commissioner or a person to whom he has delegated any of his powers or duties shall be admitted without charge to professional contests and exhibitions and amateur boxing and wrestling contests and exhibitions. R.S.O. 1960, c. 26, s. 11 (2).

## Regulations

**13.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) prescribing the powers and duties of the Commissioner;
- (b) authorizing the Commissioner,
  - (i) to order any amateur or professional boxing contest or exhibition to be stopped if he considers it necessary,
  - (ii) to approve the persons who may take part in professional boxing contests or exhibitions of more than ten three-minute rounds,
  - (iii) to designate the time and place of weighing-in for amateur and professional boxers and wrestlers,

- (iv) to prescribe the time limit for amateur and professional boxing and wrestling contests and exhibitions,
  - (v) to direct a professional boxing contest or exhibition to be held notwithstanding a boxer under contract to take part therein is over-weight,
  - (vi) to settle disputes referred to him by professional boxers and persons holding professional boxing contests or exhibitions,
  - (vii) to permit a substitute for a boxer who is unable or refuses to take part in a professional boxing contest or exhibition, and
  - (viii) to determine the announcements that may be made from the ring in amateur and professional boxing and wrestling contests and exhibitions in addition to those authorized by the regulations;
- (c) prescribing the equipment to be used for and the rules applicable to the conduct of amateur and professional boxing and wrestling contests and exhibitions, including the appointment and duties of the officials of the contests and exhibitions, the definition of fouls and the manner of determining the winners;
  - (d) providing for the issuing of licences and permits for the holding of amateur and professional boxing and wrestling contests and exhibitions and for the suspension and cancellation of such licences and the cancellation of such permits;
  - (e) providing for the licensing of amateur and professional boxers and wrestlers, managers of professional boxers and wrestlers, referees, seconds and other officials officiating at amateur or professional boxing or wrestling contests or exhibitions and for the suspension and cancellation of such licences;
  - (f) providing for the payment of fees for licences and permits and the manner of collecting such fees;
  - (g) providing for payment to the Minister of a fee or charge by way of a licence fee or otherwise in respect of the holding of any amateur boxing or wrestling contest or exhibition and for the manner of collecting such fee or charge;
  - (h) authorizing the Commissioner to levy fines or other pecuniary penalties against officials or against persons who are the holders or who by the regulations are required to be the holders of licences under this Act for failure to comply with any provision of this Act or of the regulations;



- (i) prescribing the forms of contracts to be used in connection with the services and management of professional boxers and wrestlers;
- (j) prescribing the duties of persons holding amateur or professional boxing or wrestling contests or exhibitions;
- (k) prescribing the security to be furnished to the Commissioner by persons holding professional boxing or wrestling contests or exhibitions to ensure payment of officials and contestants and the amount payable to the Minister under section 5;
- (l) regulating the holding and conduct of professional contests or exhibitions of dancing, swimming, rowing and tennis;
- (m) prescribing the classes of persons who may take part in amateur and professional boxing and wrestling contests and exhibitions;
- (n) defining "amateur" and "professional" for the purposes of this Act and the regulations;
- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

General  
penalty

(2) Every person who contravenes any provision of this Act or of the regulations is guilty of an offence and on summary conviction is liable, if no other penalty is provided, to a fine of not less than \$20 and not more than \$1,000.

Duplication  
of penalties

R.S.O. 1970,  
c. 450

(3) Where a fine or other pecuniary penalty has been levied by the Commissioner under the regulations and such fine or other penalty has been paid, no proceedings shall be taken under *The Summary Convictions Act* in respect of the same matter. R.S.O. 1960, c. 26, s. 12.

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CHAPTER 36

The Audit Act

**1.**—(1) The Lieutenant Governor in Council may appoint an officer to be called the “Provincial Auditor”, in this Act called the “Auditor”. Appointment of Auditor

(2) The Auditor shall be paid a salary to be fixed by the Lieutenant Governor in Council, which shall be charged to and paid out of the Consolidated Revenue Fund. Salary

(3) The salary of the Auditor shall not be reduced except on address of the Assembly. R.S.O. 1960, c. 27, s. 1. Idem

**2.** The Auditor shall hold office during good behaviour, but shall be removable for cause by the Lieutenant Governor on address of the Assembly. R.S.O. 1960, c. 27, s. 2. Tenure of office

**3.** The Lieutenant Governor in Council, upon the recommendation of the Auditor, may appoint an officer to be called the “Assistant Provincial Auditor” who, in the absence of the Auditor owing to illness or otherwise or in case of a vacancy in the office, shall during such absence or vacancy possess the powers and perform the duties of the Auditor. R.S.O. 1960, c. 27, s. 3. Assistant Auditor

**4.** The Lieutenant Governor in Council, upon the recommendation of the Auditor, may appoint to the staff of the Auditor such officers, clerks and other persons as the Auditor considers necessary. R.S.O. 1960, c. 27, s. 4. Appointment of officers

**5.** The Auditor may make orders and rules for the conduct of the internal business of his office and may suspend any member of his staff. R.S.O. 1960, c. 27, s. 5. Orders and rules, how made

**6.** The Auditor may delegate to any member of his staff authority to perform any duty, act or function which by this Act he is required to do other than reporting to the Assembly or to the Lieutenant Governor in Council. R.S.O. 1960, c. 27, s. 6. Delegation of authority

**7.** Every department of the public service shall furnish the Auditor with such information regarding its powers, duties, activities, organization, financial transactions and methods of business as he from time to time requires, and the Auditor shall be given access to all books, accounts, financial records, reports, files Information and access to records

and all other papers, things or property belonging to or in use by the department and necessary to facilitate the audit and shall be afforded every facility for verifying transactions with the balances or securities held by depositaries, fiscal agents or custodians. R.S.O. 1960, c. 27, s. 7, *amended*.

Responsi-  
bility of  
ministers  
and officers,  
and audit by  
departments

**8.** Nothing in this Act shall be construed to affect the responsibility of any minister, deputy minister, departmental officer or other person charged with the administration of public moneys, and the responsibility for the conduct of the financial business of each department shall rest with the head of the department, and, before accounts are recommended to the Treasurer of Ontario for payment, they shall be checked and examined in detail and vouched as correct in every respect and allowed and passed by the proper departmental officers. R.S.O. 1960, c. 27, s. 8.

Auditor to  
examine  
expenditures

**9.—(1)** Except where otherwise provided, the Auditor shall examine on behalf of the Assembly all accounts of expenditure of public moneys out of the Consolidated Revenue Fund, whether held in trust or otherwise.

Purpose and  
authority  
for expendi-  
ture to be  
observed

(2) The Auditor shall satisfy himself that every account requisitioned for payment is in accordance with the terms and conditions of the grant to which the account relates.

Auditor may  
admit  
vouchers and  
examine in  
detail if  
requested

(3) The Auditor, after satisfying himself that a voucher has been examined and certified as correct by the department concerned, may, in his discretion and having regard to the character of the departmental examination, admit it as satisfactory, but, if the Treasury Board desires any voucher to be examined in greater detail, the Auditor shall do so. R.S.O. 1960, c. 27, s. 9.

Accom-  
modation  
for staff

**10.** The Auditor may station one or more members of his staff in any department of the public service to enable him to carry out his duties under this Act more effectively, and the department shall provide such accommodation as is required for the purpose. R.S.O. 1960, c. 27, s. 10.

Issue of  
cheques

**11.—(1)** Except as provided in this section or section 12, no cheque for the payment of public money shall issue without the certificate of the Auditor that there is legislative authority for the payment.

Upon advice  
of Minister of  
Justice and  
Attorney  
General

(2) When, upon an application for a cheque, the Auditor has reported that there is no legislative authority, then upon the written opinion of the Minister of Justice and Attorney General or Deputy Minister of Justice and Deputy Attorney General that there is legislative authority, citing it, the cheque may be issued.

(3) The authority to make an expenditure under a special warrant lapses and any unexpended balance shall be written off at the end of the fiscal year in which the warrant is given, except that during the period of thirty days next following the end of the fiscal year there may be paid an amount not exceeding the unexpended balance of the warrant for the purpose of discharging any debt that was incurred during such fiscal year, and such expenditure may be charged in the accounts of such fiscal year.

Lapse of special warrants

(4) When the Auditor has refused to certify that a cheque may issue, the minister of the department requisitioning the cheque may upon notice to the Auditor refer the matter to the Treasury Board and thereupon the correspondence in the case together with a memorandum stating,

Reference to Treasury Board

- (a) the legislative authority under which it is considered the expenditure may be made;
- (b) the objections taken by the Auditor; and
- (c) the answer to the objections,

shall be submitted by the minister in charge of the department to the Treasury Board and the Board may in its discretion order the issue of the cheque. R.S.O. 1960, c. 27, s. 11, *amended*.

**12.**—(1) The certificate or order of the Minister of Justice and Attorney General or Deputy Minister of Justice and Deputy Attorney General that a sum of money is required to be paid out of the Consolidated Revenue Fund on account of the investigation, detection or punishment of any offence against the laws of Ontario or of Canada, or on account of special services or disbursements in connection with inquests, or any purpose connected with the administration of justice in either civil or criminal matters, is sufficient authority for the issuing of a cheque by the Treasurer of Ontario for the amount named in the certificate or order, and the officer or other person to whom the cheque is issued shall account to the Minister of Justice and Attorney General for the proper disbursement of the amount received by such officer or other person.

Payment for special cases

(2) The certificate of the Minister of Justice and Attorney General or Deputy Minister of Justice and Deputy Attorney General that any moneys received by any officer or other person under this section have been duly accounted for is final and conclusive and the account is not subject to any further examination. R.S.O. 1960, c. 27, s. 12, *amended*.

Certificate that moneys accounted for

**13.** Every cheque issued by the Treasurer of Ontario shall be countersigned by the Auditor. R.S.O. 1960, c. 27, s. 13.

Counter-signing cheques



Accounts  
for work,  
etc., to be  
certified

**14.**—(1) No payment shall be authorized by the Auditor in respect of services, publications, grants, work or material unless, in addition to any other voucher or certificate that may be required, the accounts accompanying the requisition for payment bear the certificate of an official who has knowledge of the facts to the effect that the person has been in attendance, that the publication is being received and is billed at scheduled rates, that any relevant regulations have been complied with, that the work has been performed or the material supplied, as the case may be, and that the price charged is according to contract or, if not covered by contract, is fair and just.

Approval  
by order  
in council

(2) Notwithstanding any provision of this Act, the Auditor, before authorizing the payment of any public money, may require the matter to be referred to the Lieutenant Governor in Council for his approval, and, unless the approval of the Lieutenant Governor in Council is given, such payment shall not be made. R.S.O. 1960, c. 27, s. 14.

Fiscal year

**15.**—(1) The Public Accounts cover the period from the commencement of business on the 1st day of April in one year to the close of business on the 31st day of March in the next year, which period constitutes the fiscal year.

Estimates

(2) All estimates submitted to the Legislature shall be for services coming in course of payment during the fiscal year.

Lapse of  
appropriations

(3) All balances of appropriations that remain unexpended at the end of a fiscal year lapse and shall be written off, except that during the period of thirty days next following the end of such fiscal year there may be paid out of any appropriation an amount not exceeding the unexpended balance of the appropriation for the purpose of discharging any debt that was incurred during such fiscal year, and the expenditure may be charged in the accounts of such fiscal year, but any debts that remain unpaid at the end of the period of thirty days next following the end of such fiscal year shall be paid out of the appropriation for the ensuing fiscal year. R.S.O. 1960, c. 27, s. 15.

Preparation  
of Public  
Accounts

**16.** The Public Accounts shall be prepared under the direction of the Auditor and shall be delivered to the Lieutenant Governor in Council and laid before the Assembly within the first ten days of the first session held in the following calendar year. R.S.O. 1960, c. 27, s. 16.

Determina-  
tion of  
differences  
as to charges  
against ap-  
propriations

**17.** If a difference arises between the Auditor and the minister of any department respecting the appropriation or account to which an authorized expenditure should be charged, the difference may be referred by the minister to the Treasury Board, and the Board shall determine in what manner and to what appropria-



tion or account the expenditure shall be charged. R.S.O. 1960, c. 27, s. 17.

**18.** Notwithstanding anything in this Act, whenever the Assembly has concurred in the report of the Committee of Supply recommending the passing of any estimates, the Lieutenant Governor in Council may authorize the payment of any items of expenditure so concurred in. R.S.O. 1960, c. 27, s. 18.

Payments  
authorized  
by Assembly

**19.—**(1) The Auditor shall, on behalf of the Assembly, examine all accounts of receipts of public moneys forming part of the Consolidated Revenue Fund whether held in trust or otherwise in order to ascertain that adequate regulations and procedures are in operation to secure an effective check on the assessment, collection and allocation of revenue.

Examination  
of regula-  
tions and  
procedures

(2) The Auditor shall satisfy himself as to the correctness of the accounts mentioned in subsection 1. R.S.O. 1960, c. 27, s. 19.

Examination  
of receipts

**20.—**(1) The Auditor shall make an annual report to the Assembly respecting the fiscal year then closed,

Annual  
report

- (a) as to his examination of accounts of receipts and payments of public moneys;
- (b) as to his examination of the balance sheet and related schedules shown in the Public Accounts, in which he shall state whether they were compared with the books of account and financial records, and whether he has obtained all the information and explanations he has required, and whether, in his opinion, they are properly drawn up so as to present fairly the financial position of the Province of Ontario;
- (c) as to all special warrants and cheques for the issue of which he has refused to certify, citing the date and the amount of any expenditures incurred in consequence thereof;
- (d) as to all orders of the Treasury Board issued for the authorization of expenditure in excess of appropriations, citing the date, the amount authorized and the amount expended;
- (e) as to any important change in the extent or character of any examination made by him; and
- (f) as to such matters as he desires to bring to the attention of the Assembly.

(2) The report of the Auditor shall be delivered to the Lieutenant Governor in Council and laid before the Assembly within the first ten days of the first session held in the following calendar year. R.S.O. 1960, c. 27, s. 20.

Tabling  
report

Auditor of  
Crown  
agencies

**21.** Nothing in this Act shall be construed to require the Auditor to examine or report upon the accounts of any agency of the Crown if the Lieutenant Governor in Council, in pursuance of statutory authority in that behalf, has designated another auditor to examine and report upon the accounts of such agency. R.S.O. 1960, c. 27, s. 21.

Auditor may  
examine  
on oath

**22.** The Auditor may examine any person on oath on any matter pertinent to any account submitted to him for examination, and such oath may be administered by him to any person whom he desires to examine. R.S.O. 1960, c. 27, s. 22.

Facsimile  
signatures

**23.** The Auditor may authorize the use of a facsimile of his signature or a facsimile of the signature of any officer or clerk authorized to sign for him. R.S.O. 1960, c. 27, s. 23.

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CHAPTER 37

The Bail Act

**1.** In cases in which a person has been committed for trial and is admitted to bail, the Crown attorney shall, and, in any other case in which a person is admitted to bail, the Crown attorney may, deliver or transmit a certificate of lien (Form 1) to the sheriff of the county in which the land mentioned therein is situated. R.S.O. 1960, c. 28, s. 1.

Crown attorney to deliver or transmit certificate of lien

**2.** Upon the receipt of a certificate of lien, the sheriff shall, without fee, endorse thereon the day of the year, the month, the hour and the minute of its receipt and shall enter in an alphabetically-arranged index book kept for the purpose the name of the surety shown on the certificate of lien. R.S.O. 1960, c. 28, s. 2.

Endorsement and index book

**3.**—(1) The sheriff forthwith upon the receipt of a certificate of lien affecting land under the land titles system shall deliver or transmit to the proper master of titles a copy of the certificate of lien without his endorsement.

Sheriff to deliver or transmit copy to land titles office

(2) Upon the receipt of a copy of a certificate of lien, the proper master of titles shall, without fee, endorse thereon the day of the year, the month, the hour and the minute of its receipt and shall enter in an alphabetically-arranged index book kept for the purpose the name of the surety shown on the certificate of lien. R.S.O. 1960, c. 28, s. 3.

Entry by master of titles in index book

**4.** Where the land mentioned in the certificate of lien is under the land registry system, the Crown, as soon as the entry mentioned in section 2 is made, has a lien against the surety's property mentioned in the certificate of lien for an amount equal to the amount for which he offered himself as a surety as shown in the certificate of lien. R.S.O. 1960, c. 28, s. 4.

Where land under registry system

**5.** Where the land mentioned in the certificate of lien is under the land titles system, the Crown, as soon as the entry mentioned in subsection 2 of section 3 is made, has a lien against the surety's property mentioned in the certificate of lien for an amount equal to the amount for which he offered himself as a surety as shown in the certificate of lien. R.S.O. 1960, c. 28, s. 5.

Where land under land titles system

**6.** Where a certificate respecting executions against lands is required from a sheriff or master of titles, he shall, without additional fee, include in the execution certificate a statement as

Certificate re execution against lands

to whether there is a name shown on the index book mentioned in section 2 or subsection 2 of section 3, as the case may be, that is the same as the name shown on the certificate. R.S.O. 1960, c. 28, s. 6, *amended*.

Crown  
attorney  
to deliver  
or transmit  
copy of  
certificate  
of discharge

**7.** As soon as a surety is discharged, the lien is discharged, and the Crown attorney shall deliver or transmit a certificate of discharge (Form 2) to the sheriff to whom the certificate of lien was delivered or transmitted. R.S.O. 1960, c. 28, s. 7.

Disposal of  
certificate  
of lien in  
sheriff's  
office

**8.** Upon the receipt of a certificate of discharge, the sheriff shall attach the certificate of discharge to the proper certificate of lien and strike the name of the surety from the index book kept pursuant to section 2. R.S.O. 1960, c. 28, s. 8.

Sheriff to  
deliver or  
transmit  
copy of  
certificate  
of discharge  
to master's  
office

**9.—(1)** Where the land mentioned in a certificate of discharge is under the land titles system, the sheriff forthwith upon the receipt of the certificate of discharge shall deliver or transmit to the proper master of titles a copy of the certificate of discharge.

Disposal of  
certificate  
of lien in  
land titles  
office

**(2)** Upon the receipt of a copy of a certificate of discharge from the sheriff, the proper master of titles shall attach the copy of the certificate of discharge to the proper certificate of lien and strike the name of the surety from the index book kept pursuant to subsection 2 of section 3. R.S.O. 1960, c. 28, s. 9.

FORM 1

(Section 1)

CERTIFICATE OF LIEN

I, \_\_\_\_\_, Crown attorney for the \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_, hereby certify  
that \_\_\_\_\_ of the \_\_\_\_\_  
of \_\_\_\_\_, is a surety for bail in the  
sum of \$ \_\_\_\_\_ for the appearance of \_\_\_\_\_  
The surety has real property as follows:

Street address \_\_\_\_\_  
Lot and plan number \_\_\_\_\_

(or if in land titles)

Parcel number. \_\_\_\_\_

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_,  
19 \_\_\_\_\_

\_\_\_\_\_  
Crown Attorney  
for the County of \_\_\_\_\_

R.S.O. 1960, c. 28, Form 1.

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FORM 2

(Section 7)

CERTIFICATE OF DISCHARGE

The certificate of lien, dated the \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_, wherein \_\_\_\_\_ was named  
surety for the appearance of \_\_\_\_\_ in the amount  
of \$ \_\_\_\_\_, is discharged.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_,  
19 \_\_\_\_\_

\_\_\_\_\_  
Crown Attorney  
for the County of \_\_\_\_\_

R.S.O. 1960, c. 28, Form 2.

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## CHAPTER 38

### The Bailiffs Act

#### 1. In this Act,

Interpre-  
tation

- (a) “bailiff” means a person who acts, assists any person to act or holds himself out as being available to act for or on behalf of any other person in the repossession or seizure of chattels or in any eviction;
- (b) “county” includes united counties and a provisional judicial district;
- (c) “county court” includes a district court;
- (d) “Director” means the Director of the Registration and Examination Branch of the Department of Financial and Commercial Affairs;
- (e) “Minister” means the Minister of Financial and Commercial Affairs;
- (f) “regulations” means the regulations made under this Act;
- (g) “Treasurer” means the Treasurer of Ontario and Minister of Economics. 1960-61, c. 5, s. 1; 1964, c. 5, s. 1, *amended*.

**2.** This Act does not apply to a person while acting as a bailiff under a small claims court process or on behalf of a sheriff. 1960-61, c. 5, s. 2. Application

**3.—(1)** No person, other than a person appointed as a bailiff under *The Small Claims Courts Act* or a sheriff’s bailiff, shall act as a bailiff unless he has been appointed by the Lieutenant Governor on the recommendation of the Minister. Appointment  
R.S.O. 1970,  
c. 439

(2) An appointment shall designate the county for which the bailiff is appointed. 1960-61, c. 5, s. 3. Idem

**4.** A bailiff may act as a bailiff in a county other than the county for which he is appointed if he first obtains the consent of a judge of the county court of the county in which he proposes to act. 1961-62, c. 7, s. 1. Consent of  
county judge  
for bailiff  
to act

Costs out-  
side county

R.S.O. 1970,  
c. 92

**5.**—(1) The costs of a bailiff for travelling or accommodation outside the county for which he is appointed shall not be charged as recoverable costs in a seizure, repossession or eviction unless the costs are taxed under *The Costs of Distress Act* and the clerk of the county court is satisfied that it was not practicable for the seizure, repossession or eviction to be made by a bailiff appointed for the county in which the repossession, seizure or eviction was made.

Idem

(2) For the purpose of subsection 1, section 6 of *The Costs of Distress Act* applies to costs in an eviction as if such costs were costs in a seizure or repossession. 1960-61, c. 5, s. 5.

Application  
for appoint-  
ment

**6.** An application for appointment as a bailiff shall be made to the clerk of the peace in the county in which the applicant intends to carry on business as a bailiff and shall state,

- (a) the name and residence of the applicant;
- (b) the place where the applicant intends to carry on business;
- (c) the qualifications of the applicant to act as a bailiff;
- (d) any circumstance indicating that a bailiff is needed for the public convenience in the place where the applicant intends to carry on business as a bailiff; and
- (e) whether the applicant has previously acted as a bailiff and, if so, where. 1960-61, c. 5, s. 6.

Examination

**7.** Upon receiving an application, the clerk of the peace shall examine the applicant and shall forward the results of the examination, together with the security required by section 12 and his recommendations, to the Director. 1960-61, c. 5, s. 7; 1964, c. 5, s. 2.

Recom-  
mendation  
by Minister

**8.** The Minister may recommend the appointment of the applicant as a bailiff if,

- (a) the applicant has complied with this Act and the regulations;
- (b) the applicant is qualified to act as a bailiff; and
- (c) a bailiff is needed for the public convenience in the county in which the applicant intends to carry on business as a bailiff. 1960-61, c. 5, s. 8.

Revocation  
of  
appointment

**9.**—(1) The Lieutenant Governor, on the recommendation of the Minister, may revoke an appointment where the bailiff,

- (a) has not complied with this Act or the regulations or *The Costs of Distress Act*; or

(b) is incompetent or without capacity. 1960-61, c. 5, s. 9 (1).

(2) No appointment of a bailiff shall be revoked except after a Hearing hearing by the Director or person designated by him at which the bailiff shall have an opportunity to be present and make representations, either personally or by counsel, and to examine and cross-examine witnesses.

(3) The Director shall report the results of the hearing and his Report recommendations to the Minister. 1965, c. 7, s. 1.

**10.**—(1) Any person who has a complaint against a bailiff Complaints may make his complaint to the clerk of the peace in the county for which the bailiff is appointed. 1960-61, c. 5, s. 10 (1).

(2) The clerk of the peace shall investigate the complaint and Idem forward the complaint, together with the results of his investigation, to the Director. 1960-61, c. 5, s. 10 (2); 1964, c. 5, s. 3.

**11.**—(1) No person shall engage in business as a bailiff while Not to engage in business of collection agency an employee of or engaging in the business of a collection agency.

(2) A person authorized to engage in the business of a bailiff Change of business address shall notify the Director of any change in the address of the place of business. 1964, c. 5, s. 4.

(3) Every bailiff shall keep and maintain books of account in accordance with accepted principles of double-entry bookkeeping, and shall obtain an audit of his books of account and financial transactions annually by a public accountant licensed under *The* R.S.O. 1970, c. 373 *Public Accountancy Act*. Books of account

(4) Every bailiff shall furnish the Director with a financial Financial statement statement in such form and at such times as the Director requires.

(5) The Director or such other person as the Director authorizes in writing may, at any time between 9 o'clock in the forenoon and 5 o'clock in the afternoon, enter the premises of a bailiff and examine his books of account and records. Inspection

(6) Every bailiff shall maintain an account designated as a Trust accounts trust account in a chartered bank, the Province of Ontario Savings Office or a registered trust company in which he shall deposit all moneys received by him on behalf of other persons, less any lawful fees or charges, and such moneys shall be kept and accounted for separately from any other moneys.

(7) Before the fifteenth day of each month, every bailiff shall account to the persons entitled thereto for any moneys received in trust during the previous month and shall pay the moneys, less lawful fees and charges. Accounting for and payment of trust moneys

Disposition  
of unclaimed  
trust moneys

(8) Within six months after a bailiff receives moneys held under subsection 6, the bailiff shall make every effort to locate the person entitled to the moneys, and shall pay any moneys thereafter remaining unclaimed to the Treasurer who may pay the moneys to any person who satisfies the Treasurer that he is entitled thereto. 1966, c. 11, s. 1.

Bonding

**12.**—(1) No person shall act as a bailiff unless he is bonded in the prescribed amount and form.

Idem

(2) The bond shall be,

R.S.O. 1970,  
c. 196

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security.

Collateral  
security

(3) The collateral security shall be direct or guaranteed securities of the Government of Canada or of the Government of Ontario. 1960-61, c. 5, s. 11.

Forfeiture  
of bond

**13.**—(1) Where an appointment has been revoked under section 9 and,

1953-54,  
c. 51 (Can.)

- (a) the bailiff has been convicted of an offence involving fraud, theft, assault, libel or breaking and entering under the *Criminal Code* (Canada) while acting as a bailiff, or of a conspiracy or an attempt to commit such an offence, and the conviction has become final; or
- (b) the bailiff has had a judgment for the recovery of money paid for services not performed or based on a finding of fraud, conversion, assault, libel or trespass committed while acting as a bailiff entered against him, and the judgment has become final,

the Minister may direct that the bond of the bailiff be forfeited.

Idem

(2) Upon a direction being made under subsection 1, the bond is forfeited and the amount of the bond becomes due and owing as a debt due to the Crown in right of Ontario. 1960-61, c. 5, s. 12.

Sale of  
collateral  
security

**14.**—(1) Where a bond secured by the deposit of collateral security is forfeited, the Treasurer may sell the collateral security at the current market price. 1960-61, c. 5, s. 13 (1).

Payment of  
proceeds

(2) The Treasurer may,

- (a) assign any bond forfeited under section 13 and transfer the collateral security, if any;
- (b) pay over any money recovered under the bond; and



- (*c*) pay over any money realized from the sale of the collateral security,

to any judgment creditor of the bailiff bonded for claims arising out of the circumstance under which the bond was forfeited, or to the Accountant of the Supreme Court in trust for any person who becomes such judgment creditor. 1960-61, c. 5, s. 13 (2); 1961-62, c. 7, s. 2 (1).

(3) Where a bond has been forfeited or cancelled and the Treasurer has not received notice in writing of any claim against the proceeds of the bond or such part as remains in the hands of the Treasurer within two years of the forfeiture or cancellation, the Treasurer may pay the proceeds or part remaining to any person who made a payment under the bond. 1960-61, c. 5, s. 13 (3); 1961-62, c. 7, s. 2. (2). Idem

**15.**—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1960-61, c. 5, s. 14; 1964, c. 5, s. 5 (1). Offence

(2) No proceeding under subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director. 1964, c. 5, s. 5 (2). Limitation

**16.** The Lieutenant Governor in Council may make regulations, Regulations

- tions,
- (*a*) prescribing forms and providing for their use;
  - (*b*) prescribing fees for applications;
  - (*c*) prescribing the amount of bonds and collateral security to be furnished under this Act;
  - (*d*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960-61, c. 5, s. 15.
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CHAPTER 39

The Barristers Act

**1.** A person who is or has been Minister of Justice and Attorney General of Canada or Solicitor General of Canada is entitled to be called to the bar of Ontario without complying with *The Law Society Act* or any of the regulations or rules of the Society as to admission, examinations, payment of fees or otherwise, and is thereupon entitled to practise at the bar of Her Majesty's courts in Ontario. R.S.O. 1960, c. 30, s. 4, *amended*.  
Call of Minister of Justice and Attorney General or Solicitor General R.S.O. 1970, c. 238

**2.—(1)** The Lieutenant Governor, by letters patent under the Great Seal, may appoint from the members of the bar of Ontario such persons as he considers proper to be, during pleasure, provincial officers under the name of "Her Majesty's counsel learned in the law" for Ontario.  
Queen's Counsel

(2) The disbarment of a barrister who holds an appointment as a Queen's counsel for Ontario has the effect of revoking such appointment. R.S.O. 1960, c. 30, ss. 6, 7, *amended*.  
Disbarment revokes Q.C. appointment

**3.—(1)** The following members of the bar of Ontario have precedence in the courts of Ontario in the following order:  
Order of precedence at the bar

- 1. The Minister of Justice and Attorney General of Canada.
- 2. The Minister of Justice and Attorney General for Ontario.
- 3. The members of the bar who have held the office of Minister of Justice and Attorney General of Canada or Attorney General for Ontario or Minister of Justice and Attorney General for Ontario, according to seniority of appointment. R.S.O. 1960, c. 30, s. 8 (1), *amended*.

(2) The Lieutenant Governor, by letters patent under the Great Seal, may grant to any member of the bar a patent of precedence in the courts of Ontario.  
Patents of precedence

(3) Queen's counsel for Ontario have precedence in the courts according to seniority of appointment unless otherwise provided in the letters patent.  
Precedence of Queen's Counsel

(4) The remaining members of the bar, as among themselves, have precedence in the courts in the order of their call to the bar.  
Precedence of other members of the bar

Crown  
Counsel

(5) Nothing in this Act affects or alters any rights of precedence that appertain to any member of the bar when acting as counsel for Her Majesty, or for any attorney general of Her Majesty, in any matter depending in the name of Her Majesty or of the attorney general before the courts, but such right and precedence remain as if this Act had not been passed. R.S.O. 1960, c. 30, s. 8 (2-5).

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CHAPTER 40

The Beach Protection Act

1. In this Act,

Interpre-  
tation

- (a) “licence” means a licence issued under this Act;
- (b) “Minister” means the Minister of Mines and Northern Affairs;
- (c) “regulations” means the regulations made under this Act;
- (d) “sand” includes earth, gravel and stone. R.S.O. 1960, c. 31, s. 1, *amended*.

2.—(1) The Minister may issue licences for the taking of sand from the bed, bank, beach, shore or waters of any lake, river or stream or from any bar or flat in any lake, river or stream or adjoining any channel or entrance to any lake, river or stream in accordance with the regulations, and may suspend or cancel any licence.

Issue and  
revocation  
of licence

(2) Each licence is effective only in the geographical area defined therein, and shall contain such particular terms and conditions as to its operation as the Minister may direct. R.S.O. 1960, c. 31, s. 2.

Operation  
of licence

3.—(1) No person, unless he is the holder of a licence, shall take or carry away in any boat, vessel, craft, cart, truck or other conveyance, or otherwise transport by land or water or remove by drag-line or other mechanical device, any sand from a bed, bank, beach, shore, waters, bar or flat mentioned in subsection 1 of section 2 whether or not such bed, bank, beach, shore, waters, bar or flat is owned by such person.

Prohibition  
against  
taking sand

(2) Subsection 1 does not apply to the removal of sand,

Where  
licence not  
required

- (a) by a municipality for municipal use; or
- (b) by a *bonafide* resident of Ontario for his personal use and not for resale or for use for commercial purposes, if the removal is with the written consent of an official designated by the council of the local municipality in which the sand is situate. R.S.O. 1960, c. 31, s. 3.

4. Subject to subsection 2 of section 3, no person shall go upon any bed, bank, beach, shore, waters, bar or flat mentioned in subsection 1 of section 2 for the purpose of removing or assisting

Being  
present to  
remove  
sand



to remove any sand therefrom except under the authority of a licence. R.S.O. 1960, c. 31, s. 4.

Having  
sand  
unlawfully  
taken on  
vessel

**5.** No person shall have on board his vessel or on a vessel in his possession or control any sand taken contrary to this Act. R.S.O. 1960, c. 31, s. 5.

Issue of  
search  
warrant

**6.**—(1) Where a person makes oath before a justice of the peace that he has reason to believe and does believe that sand, in contravention of section 3, 4 or 5, is on board any vessel, or at any place, the justice of the peace shall issue a search warrant directed to a sheriff, police officer, constable or bailiff, who shall forthwith proceed to search the vessel or place and, if any sand is found thereon or thereat, he shall seize it and the vessel, if any, in which it is contained, and shall keep them secure until final action as hereinafter provided is had thereon.

Prosecution

(2) The owner, master or person in possession of the vessel, or person in possession of sand, shall, without further information laid, be summoned forthwith by the justice who issued the warrant to appear before a provincial judge, and if such owner, master or person in possession fails to appear, or if it is shown to the satisfaction of the provincial judge that a contravention has taken place, the provincial judge may convict the owner, master or person in possession. R.S.O. 1960, c. 31, s. 6 (2), *amended*.

Removal of  
sand from  
bed of  
certain  
streams  
prohibited

**7.**—(1) No person shall remove any sand from the bed of any river, stream or creek running between two municipalities without the consent of the councils of such municipalities, and in no case shall any sand be removed from the bed of any river, stream or creek so as to injure or endanger the safety of any bridge, drainage pipe, watermain or other structure erected or laid by a municipal corporation.

Offence

(2) Every person who contravenes any provision of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$25. R.S.O. 1960, c. 31, s. 7.

Removal of  
sand from  
street or  
road  
prohibited

**8.**—(1) No person shall remove any sand from any street or road or from the extension of any street or road into any river or lake without the consent of the council of the municipality in which it is situate.

Offence

(2) Every person who contravenes any provision of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$10 for every load removed. R.S.O. 1960, c. 31, s. 8.

Removal  
of sand  
from  
Erie,  
Ontario,  
Huron

**9.**—(1) Notwithstanding any other provision of this or any other Act or in any regulation or order made under this or any other Act, the Lieutenant Governor in Council may make

regulations prohibiting or restricting, subject to the terms and conditions contained therein, the taking, removing and carrying away by cart, truck, vessel or any other vehicle or water craft of any sand from any bed, beach, shore or waters of or adjacent to any part of the shores of Lake Erie, Lake Ontario or Lake Huron, or from any land covered by the waters of any of such lakes adjacent to such shore, or from any sandbar or flat therein or adjoining any channel or entrance thereto as described in the regulations.

(2) Such prohibition or restriction extends to the owner, tenant or occupant of any such bed, beach, shore, sandbar or flat and to any person claiming under the authority of any municipal corporation or of any order of the Ontario Municipal Board and to every other individual and corporation. Extent of prohibition or restriction

(3) Every person who contravenes the prohibition or restriction contained in any such regulation is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1960, c. 31, s. 9. Offence

**10.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, if no other penalty is provided, is liable to a fine of not less than \$10 and not more than \$1,000, but no prosecution shall be commenced except with the consent in writing of the Minister of Justice and Attorney General. R.S.O. 1960, c. 31, s. 10, *amended*. General penalty; consent to prosecute

**11.** Except as otherwise provided in this Act, *The Summary Convictions Act* applies to all proceedings taken under this Act. R.S.O. 1960, c. 31, s. 11. Application of R.S.O. 1970, c. 450

**12.** In addition to the method of service prescribed by *The Summary Convictions Act*, any summons or other proceeding may, where it is directed to a person on board a vessel, be served by leaving it, or a copy thereof, with the person who is or appears to be in charge or command of the vessel. R.S.O. 1960, c. 31, s. 12. Service of proceedings

**13.** In any prosecution the burden of proving the right to take sand is upon the person charged with a contravention of the Act. R.S.O. 1960, c. 31, s. 13. Burden of proof

**14.—(1)** A person to whom a licence is issued may be required to pay to the Crown, in addition to his licence fee, a fixed sum for every yard of sand removed under the authority of the licence. Royalties

(2) The amount to be charged per yard shall be fixed by the Minister according to the location, type, availability and accessibility of the sand. Amount of royalty

Security

(3) The Minister may require a person to whom such a licence is issued and by whom such sums are payable to the Crown to give security by bond satisfactory to the Minister for the payment of such sums. R.S.O. 1960, c. 31, s. 14.

Sale of  
vessel, etc.,  
for payment  
of penalty  
R.S.O. 1970,  
c. 450

**15.**—(1) In addition to the remedies provided by *The Summary Convictions Act* for the recovery of penalties, any penalty imposed for a contravention of this Act, if not paid in accordance with the conviction, may be levied by the sale of any vessel, conveyance, drag-line or other mechanical device involved in the commission of the offence under the warrant of the convicting provincial judge.

Payment of  
balance to  
owner

(2) Upon return being made of the sale, after satisfying the fine and the costs of the sale, the surplus, if any, shall be paid to the owner of the vessel. R.S.O. 1960, c. 31, s. 15, *amended*.

Regulations

**16.** The Lieutenant Governor in Council may make regulations,

- (a) providing for the issue and renewal of licences and prescribing the terms and conditions thereof and the fees payable therefor;
  - (b) prescribing the form and contents of security bonds;
  - (c) prescribing forms and providing for their use;
  - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 31, s. 16.
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## CHAPTER 41

### The Beds of Navigable Waters Act

**1.** Where land that borders on a navigable body of water or stream, or on which the whole or a part of a navigable body of water or stream is situate, or through which a navigable body of water or stream flows, has been heretofore or is hereafter granted by the Crown, it shall be deemed, in the absence of an express grant of it, that the bed of such body of water was not intended to pass and did not pass to the grantee. R.S.O. 1960, c. 32, s. 1.

Grant to be deemed to exclude the bed

**2.** Section 1 does not affect the rights, if any, of a grantee from the Crown or of a person claiming under him, where such rights were, previous to the 24th day of March, 1911, determined by a court of competent jurisdiction in accordance with the rules of the English Common Law, or of a grantee from the Crown, or a person claiming under him who establishes to the satisfaction of the Lieutenant Governor that he or any person under whom he claims has previous to the 24th day of March, 1911, developed a water power or powers under the *bona fide* belief that he had the legal right to do so, provided that he may be required by the Lieutenant Governor in Council to develop such power or powers to the fullest possible extent and provided that the price charged for power derived from such water power or powers may from time to time be fixed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may direct that letters patent granting such rights be issued to such grantee or person claiming under him under and subject to such conditions and provisions as are considered proper for insuring the full development of such water power or powers and the regulation of the price to be charged for power derived from them. R.S.O. 1960, c. 32, s. 2.

Saving as to certain cases

**3.** This Act does not apply to the bed of the river in Lot 8 in the 6th Concession of the Township of Merritt in the District of Sudbury. R.S.O. 1960, c. 32, s. 3.

Act not to apply to a certain locality

**4.** Notwithstanding any other provision of this Act, the case of any person setting up on special grounds a claim to receive from the Crown a grant or lease of any part of the bed of a navigable body of water or stream shall be dealt with by the Lieutenant Governor in Council as he considers fair and just. R.S.O. 1960, c. 32, s. 4.

Lieutenant Governor may deal with special cases





## CHAPTER 42

## The Beef Cattle Marketing Act

**1.** In this Act,Interpre-  
tation

- (a) “association” means such association under *The Agricultural Associations Act* as is designated in the regulations; R.S.O. 1970,  
c. 8
- (b) “carcass” means a carcass of a head of cattle;
- (c) “cattle” includes bulls, cows, heifers, steers and calves, but does not include cattle that are not sold for the production of beef;
- (d) “inspector” means an inspector appointed for the purposes of this Act;
- (e) “licence” means a licence issued under this Act;
- (f) “Minister” means the Minister of Agriculture and Food;
- (g) “plant” means a premises where cattle are slaughtered;
- (h) “price reporter” means a price reporter appointed for the purposes of this Act;
- (i) “regulations” means the regulations made under this Act;
- (j) “slaughter” means slaughter for the purpose of processing meat into food. 1968, c. 7, s. 1.

**2.** The purpose and intent of this Act is to provide for,Purpose  
of Act

- (a) the establishment and standardization of procedures affecting the sale of cattle or carcasses; and
- (b) the designation and financing of an association that has power to make recommendations in respect of such procedures and to expend moneys to,
  - (i) stimulate, increase and improve the sale of cattle or carcasses,
  - (ii) disseminate information concerning the cattle industry, and
  - (iii) co-operate with any person or persons or any department of the Government of Canada or of the government of any province in the carrying out of its objects. 1968, c. 7, s. 2.

- Licences**            **3.**—(1) Except under the authority of a licence, no person shall sell cattle.
- Idem**                (2) Every person who sells cattle shall be deemed to be the holder of a licence.
- Refund of licence fees**    (3) Every person who is the holder of a licence under this section may apply for a refund of any licence fees paid by him to an association.
- Idem**                (4) Every application for a refund shall be made in the manner prescribed in the regulations.
- Idem**                (5) Where an association receives an application for a refund, it shall refund the licence fees in the manner prescribed in the regulations and in any case not later than one year after receipt of the application therefor. 1968, c. 7, s. 3.
- Recommendations by directors of association**    **4.**—(1) Where the board of an association is of the opinion that a majority of the members of the association are in favour thereof, the board of directors may recommend to the Lieutenant Governor in Council the making, amending or revoking of regulations respecting any of the matters set forth in section 5.
- Use of licence fees by association**    (2) An association may use licence fees for the purposes of,
- (a) defraying the expenses of the association in the carrying out of its objects;
  - (b) stimulating, increasing and improving the sale of cattle or carcasses;
  - (c) disseminating information concerning the cattle industry; and
  - (d) co-operating with any person or persons or any department of the Government of Canada or of the government of any province in the carrying out of its objects. 1968, c. 7, s. 4.
- Regulations**        **5.**—(1) Notwithstanding section 4, the Lieutenant Governor in Council may make regulations,
- (a) designating an association for the purposes of this Act;
  - (b) fixing the amount of licence fees up to but not exceeding,
    - (i) 15 cents for each head of cattle that weighs 500 pounds or more live weight, and
    - (ii) 5 cents for each head of cattle that weighs less than 500 pounds live weight;
  - (c) requiring persons to pay licence fees owing by them to an association;

- (d) requiring any person who receives cattle from a seller thereof to deduct, from the moneys payable to the seller, any licence fee payable by the seller to an association and to forward such licence fees to the association;
- (e) providing for the recovery by the association of licence fees owing to the association by suit in a court of competent jurisdiction;
- (f) prescribing the manner in which applications for refund of licence fees shall be made and the manner in which refunds shall be made;
- (g) providing for the exemption from any or all of the regulations of any cattle or class of cattle or any person or class of persons;
- (h) providing for the inspecting, weighing and measuring of cattle and carcasses;
- (i) respecting the buying, selling, handling, weighing, measuring, shipping and transporting of cattle and carcasses;
- (j) prescribing the manner in which receipts, classifications, weights and purchase prices shall be recorded by persons engaged in the buying or selling of cattle and made available to the Minister;
- (k) prescribing the manner in which buyers, sellers, transporters and shippers of cattle or carcasses shall identify, for the purposes of inspecting, weighing and measuring, individual sellers' lots in a shipment;
- (l) prescribing the manner in which buyers shall make returns and prepare for presentation to the sellers the statements of accounts of purchase of cattle and carcasses;
- (m) respecting the facilities and equipment to be provided and maintained for the weighing and measuring of cattle and carcasses on premises in which cattle or carcasses are assembled, held, slaughtered, weighed or measured;
- (n) prescribing the basis on which the amount payable respecting a head of cattle or a carcass shall be calculated;
- (o) prescribing the time at which a person who purchases cattle shall weigh the cattle or the carcasses thereof;
- (p) prescribing the powers and duties of inspectors and price reporters;
- (q) providing for the issuing of inspection certificates by inspectors;
- (r) prescribing forms and providing for their use;

	(s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
Scope of regulations	(2) Any regulation may be limited as to time or place, or to both.
Definitions	(3) Any word or expression used in a regulation may be defined in the regulation for the purposes of the regulation. 1968, c. 7, s. 5.
Appointment of inspectors and price reporters	<b>6.</b> The Lieutenant Governor in Council may appoint inspectors and price reporters for the purposes of this Act and may fix their remuneration and allowance for expenses. 1968, c. 7, s. 6.
Powers of inspector	<b>7.—(1)</b> For the purpose of enforcing this Act and the regulations, an inspector may enter any premises used for the assembling, holding, slaughtering, storing, processing, grading, weighing, measuring, selling or offering for sale of any cattle or carcasses and inspect any cattle, carcasses, facilities or equipment found therein.
Production of documents	(2) For the purpose of enforcing this Act and the regulations, an inspector may require the production or furnishing of copies of or extracts from any books, shipping bills, bills of lading or other records relating to cattle or carcasses.
Detention for purposes of inspection	(3) For the purpose of inspecting a head of cattle or a carcass, an inspector may detain it at the risk of the owner and, after detaining it, the inspector shall forthwith notify the owner or person who had possession of it of the detention.
Inspection after detention	(4) Where an inspector detains a head of cattle or a carcass under subsection 3, he shall, as soon as may be practicable, inspect the head of cattle and shall forthwith thereafter, <ul style="list-style-type: none"> <li>(a) release the head of cattle or carcass from detention; or</li> <li>(b) detain the head of cattle or carcass under section 8.</li> </ul>
Obstruction of inspector or price reporter	(5) No person shall hinder or obstruct an inspector or a price reporter in the course of his duties or furnish an inspector or price reporter with false information or refuse to permit any cattle, carcasses, facilities or equipment to be inspected or refuse to furnish an inspector or price reporter with information.
Production of copies	(6) A person shall, when required by an inspector, produce copies of and extracts from any books, shipping bills, bills of lading and other records relating to cattle or carcasses. 1968, c. 7, s. 7.
Detention of cattle and carcasses	<b>8.—(1)</b> Any cattle or carcasses, in respect of which an inspector believes on reasonable grounds an offence against this Act or the regulations has been committed, may be placed under detention at the risk and expense of the owner by the inspector,

and the inspector shall forthwith thereafter notify the owner or the person who had possession of them of the detention in writing.

(2) A notice given by an inspector under subsection 1 shall contain the particulars in respect of which it is alleged the cattle or carcasses do not comply with this Act or the regulations. Notice to contain particulars

(3) Any cattle or carcasses detained under subsection 1 shall remain under detention until the owner of the cattle or carcasses complies with this Act and the regulations. Period of detention

(4) Where an inspector is satisfied that the owner of cattle or carcasses that have been detained complies with this Act and the regulations respecting the cattle or carcasses, the inspector shall forthwith release them from detention. 1968, c. 7, s. 8. Release from detention

**9.** The production by an inspector or a price reporter of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of the facts stated in the certificate and of the authority of the inspector or price reporter to exercise the powers and perform the duties prescribed in this Act and the regulations. 1968, c. 7, s. 9. Certificate of inspector or price reporter

**10.—(1)** Except as provided in subsection 2, every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$100 for a first offence and to a fine of not less than \$100 and not more than \$500 for a subsequent offence. Offences

(2) Every person who contravenes any of the provisions of subsection 5 of section 7 is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$1,000. 1968, c. 7, s. 10. Idem

**11.** No proceedings or conviction under this Act affects the right of any person to any legal remedy to which he would otherwise be entitled. 1968, c. 7, s. 11. Legal remedy not affected

**12.** For the purpose of jurisdiction, in an information or conviction for a contravention of any of the provisions of this Act or the regulations, the matter complained of may be alleged and shall be deemed to have arisen at the place where the cattle or carcasses were sold, offered, exposed or had in possession for sale or at the residence or usual place of residence of the person charged with the contravention. 1968, c. 7, s. 12. Where matter complained of deemed to have arisen





## CHAPTER 43

## The Bees Act

**1.** In this Act,

- (a) “bee-keeper” means a person who owns or is in possession of an apiary including the bees kept therein; Interpretation
- (b) “bees” means the insects known as *apis mellifera*;
- (c) “bees-wax refuse” means damaged honeycombs, honeycomb cappings or the material remaining after the first rendering of used honeycombs or honeycomb cappings;
- (d) “disease” means,
  - (i) American foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *bacillus larvae*,
  - (ii) European foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *bacillus pluton* or *bacillus alvei*, and
  - (iii) any disease designated by the regulations as a disease within the meaning of this Act;
- (e) “infected” means infected with the causal organisms of a disease;
- (f) “inspector” means an inspector appointed under this Act;
- (g) “Minister” means the Minister of Agriculture and Food;
- (h) “package bees” means bees placed in a screened cage or package without honeycombs for the purpose of being shipped. R.S.O. 1960, c. 33, s. 1, *amended*.

**2.** Bees reared and kept in hives are private property. R.S.O. 1960, c. 33, s. 2. Bees in hive private property

**3.—(1)** Subject to subsections 2, 3 and 4, where a swarm of bees leaves a hive, the owner of the swarm may enter upon the premises of any person and recover the swarm. Right of owner to pursue and recover swarm

(2) Where the owner of a swarm of bees that leaves its hive declines to pursue it and another person takes up the pursuit, such other person is subrogated to all the rights of the owner in respect of the swarm. Where owner declines to pursue swarm

(3) Where the right to recover a swarm of bees is claimed under subsection 1 or 2, the person claiming the swarm shall notify the Owner of premises to be notified

owner of the premises on which the swarm has settled before entering his premises and shall compensate him for any damage to his premises caused by the entry.

When right  
of property  
in swarm  
lost

(4) Where a swarm of bees leaves a hive and settles in an occupied hive owned by a person other than the owner of the swarm, the owner of the swarm loses all right of property in the swarm. R.S.O. 1960, c. 33, s. 3.

Appoint-  
ment of  
Provincial  
Apiarist and  
inspectors

4.—(1) The Lieutenant Governor in Council may appoint a Provincial Apiarist, an Assistant Provincial Apiarist and such inspectors as are considered necessary for the administration and enforcement of this Act and the regulations.

Assistant  
Provincial  
Apiarist

(2) The Assistant Provincial Apiarist shall act in lieu of the Provincial Apiarist in the absence of the Provincial Apiarist or when so instructed to act by him and when so doing has all the powers and may perform any of the duties of the Provincial Apiarist.

Provincial  
Apiarist

(3) The Provincial Apiarist has all the powers and may perform any of the duties of an inspector.

Duties of  
inspector

(4) It is the duty of an inspector when he considers it necessary or when so instructed by the Provincial Apiarist,

(a) to inspect any bees, hives or equipment pertaining to the keeping of bees to ascertain if any disease exists in the bees, or if the hives or equipment are infected, or if the provisions of this Act and the regulations have been complied with or contravened;

(b) to inspect any books or records required by this Act or the regulations to be kept by bee-keepers and persons who sell bees.

Employment  
of persons  
by inspector

(5) With the approval of the Provincial Apiarist, an inspector may employ such persons as he requires to assist him in an inspection and such persons shall be paid such amounts as the Minister determines.

Right of  
entry

(6) In the performance of his duties under this Act and the regulations, an inspector may at any time between sunrise and sunset enter any premises where bees, hives, equipment or books or records pertaining to the keeping of bees are kept or stored.

Obstruction  
of inspector

(7) No person shall obstruct the Provincial Apiarist, Assistant Provincial Apiarist or an inspector in the performance of his duties or furnish him with false information.

Assistance  
of bee-keeper  
in inspection

(8) Every bee-keeper shall, when requested so to do by an inspector, assist the inspector in an inspection on the premises of the bee-keeper. R.S.O. 1960, c. 33, s. 4, *amended*.

**5.—**(1) Where, in the opinion of an inspector, disease of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing, Destruction of infected bees, etc., on order of inspector

(a) require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires; or

(b) require the bee-keeper to destroy by fire, within such period as the order requires, such bees, hives or equipment as in the opinion of the inspector cannot be disinfected.

(2) Where, in the opinion of an inspector, disease not of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing, require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires. Treatment of diseased bees, etc., on order of inspector

(3) If the bee-keeper fails to carry out the instructions in an order given under subsection 1 or 2 within such period as the order requires or if so requested by the bee-keeper, the inspector may carry out the instructions in the order and the bee-keeper shall compensate the inspector for any expenses incurred in carrying out the instructions. Power of inspector to destroy or treat diseased bees, etc.

(4) Every order under this section shall be delivered to the bee-keeper by an inspector or sent by prepaid post to his last or usual place of abode. R.S.O. 1960, c. 33, s. 5. Order

**6.—**(1) No bee-keeper shall keep bees in a hive without movable frames. Bees in hive without movable frames

(2) Where an inspector finds that bees are kept in a hive without movable frames, he may order that they be transferred to hives with movable frames within such period as he specifies. Transfer of bees to hives with movable frames

(3) If a bee-keeper fails to transfer the bees in accordance with an order under subsection 2, the inspector may destroy the hives and the bees dwelling therein. R.S.O. 1960, c. 33, s. 6. Failure of bee-keeper to transfer

**7.—**(1) Where a bee-keeper deems himself aggrieved by an order of an inspector, he may within five days of the receipt of the order appeal against the order by notice to the Provincial Apiarist. Appeal

(2) Upon receipt of a notice of appeal, the Provincial Apiarist shall confirm, revoke or modify the order appealed against and shall notify the appellant of his decision by prepaid post and the appellant shall carry out such order as is given by the Provincial Apiarist in his decision. R.S.O. 1960, c. 33, s. 7. Idem

Information as to the location of hives, etc., to be given inspector

**8.** When requested by an inspector, every bee-keeper shall inform the inspector of the location of all hives and equipment pertaining to the keeping of bees in the possession of the bee-keeper. R.S.O. 1960, c. 33, s. 8.

Concealing existence of disease

**9.** No bee-keeper shall conceal the existence of any disease. R.S.O. 1960, c. 33, s. 9.

Duty of bee-keeper to report existence of disease

**10.** Every bee-keeper who finds the existence of disease of a virulent type in his own apiary or elsewhere shall immediately report the existence of the disease to the Provincial Apiarist. R.S.O. 1960, c. 33, s. 10.

Quarantine of bees

**11.—(1)** The Lieutenant Governor in Council may declare a quarantine of bees in any area in Ontario that he designates and may fix the duration of the quarantine and the conditions with respect thereto.

Moving bees to or from quarantine

**(2)** No person shall move any bees, hives or equipment pertaining to the keeping of bees to or from an area of quarantine without a permit from the Provincial Apiarist. R.S.O. 1960, c. 33, s. 11.

Permit required for sale or removal of bees

**12.—(1)** No bee-keeper shall sell or remove or cause to be removed from his premises any bees, hives or equipment pertaining to the keeping of bees without a permit from the Provincial Apiarist stating that such bees, hives or equipment were inspected and found to be free from disease or infection.

Exception

**(2)** Subsection 1 does not apply where the bees and equipment are moved by the bee-keeper from his extracting plant to his apiaries or from his apiaries to his extracting plant. R.S.O. 1960, c. 33, s. 12.

Permit required to receive or transport bees obtained outside Ontario

**13.** No person shall receive or transport in any manner within Ontario any bees other than package bees or used hives or used equipment pertaining to the keeping of bees obtained from outside Ontario without a permit from the Provincial Apiarist stating that he is satisfied that such bees are free from disease and that such used hives or used equipment are not infected. R.S.O. 1960, c. 33, s. 13.

Exposing of infected comb or honey

**14.** No bee-keeper shall expose on his premises or elsewhere any infected honeycomb or honey in such manner that it is accessible to bees. R.S.O. 1960, c. 33, s. 14.

Disposal of dead colonies of bees, etc.

**15.—(1)** Where dead colonies of bees or honeycombs are exposed in such manner that they are accessible to bees, except where they are exposed for the purpose of cleaning or disinfecting,



the Provincial Apiarist may require the bee-keeper to dispose of such colonies and honeycombs in such manner and within such period as the Provincial Apiarist specifies.

(2) If the bee-keeper fails to dispose of such colonies and honeycombs as required by the Provincial Apiarist, the Provincial Apiarist may dispose of them and the bee-keeper shall compensate the Provincial Apiarist for any expense incurred in disposing of them. R.S.O. 1960, c. 33, s. 15.

Disposal by  
inspector

**16.** No person who sells package bees shall use as food for such bees any honey or candy containing honey. R.S.O. 1960, c. 33, s. 16.

Honey pro-  
hibited as  
food for bees

**17.** Every person who receives bees that have been obtained from outside Ontario shall, within ten days of the receipt of the bees, notify the Provincial Apiarist that the bees have been received. R.S.O. 1960, c. 33, s. 17.

Bees  
obtained  
outside  
Ontario

**18.** No person shall spray or dust fruit trees during the period within which the trees are in bloom with a mixture containing any poisonous substance injurious to bees unless almost all the blossoms have fallen from the trees. R.S.O. 1960, c. 33, s. 18.

Spraying of  
fruit trees

**19.—(1)** No person in a place other than an urban municipality or suburban district designated under this section shall place or leave hives containing bees within thirty feet of a highway, dwelling or cultivated field. 1961-62, c. 8, s. 1 (1); 1965, c. 8, s. 1 (1).

Location  
of hives

(2) Subsection 1 does not apply to hives placed or left on lands where the lands are separated from the highway, dwelling or cultivated field by a hedge or a solid fence at least seven feet in height and extending at least fifteen feet from the hives in both directions. R.S.O. 1960, c. 33, s. 19 (2).

Exception

(3) No person in an urban municipality or suburban district designated under this section shall place or leave hives containing bees within 100 feet of a property line separating the lands on which the hives are placed or left from lands occupied by a dwelling or used for purposes of a community centre, public park or other place of public assembly or recreation. 1961-62, c. 8, s. 1 (2); 1965, c. 8, s. 1 (2).

Location  
of hives  
in urban  
municipal-  
ities,  
etc.

(4) The council of any township may pass by-laws designating as a suburban district any part of the township that adjoins an urban municipality or that adjoins another designated suburban district.

By-laws  
designating  
suburban  
districts

(5) A by-law passed under subsection 4 shall not take effect until it is approved by the Minister. 1965, c. 8, s. 1 (3).

Approval of  
Minister

Transporting  
of used  
containers

**20.** No person shall sell, transport or ship within Ontario any used honey container that has not been properly cleansed. R.S.O. 1960, c. 33, s. 20.

Certificate of  
registration

**21.**—(1) No person shall keep bees in Ontario without a certificate of registration from the Provincial Apiarist.

Application

(2) Every application for a certificate of registration shall be made to the Provincial Apiarist, accompanied by the prescribed fee.

Expiry

(3) Every certificate of registration expires on the 31st day of May in each year. R.S.O. 1960, c. 33, s. 21.

Bees-wax  
refuse and  
used honey-  
combs

**22.** No person shall buy, sell or transport bees-wax refuse or used honeycombs between the 1st day of April and the 1st day of December in any year without a permit from the Provincial Apiarist. R.S.O. 1960, c. 33, s. 22.

Records  
and  
returns

**23.** Every bee-keeper and every person who sells bees shall,

- (a) keep such books and records as the regulations prescribe; and
- (b) make such returns in such manner and at such times as the regulations prescribe. R.S.O. 1960, c. 33, s. 23.

Offence

**24.** Every person who contravenes any provision of this Act or the regulations or any order of the Provincial Apiarist, Assistant Provincial Apiarist or an inspector is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$50 for a first offence and to a fine of not less than \$25 and not more than \$100 or to imprisonment for a term of not more than thirty days for any subsequent offence. R.S.O. 1960, c. 33, s. 24.

Regulations

**25.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees that shall be paid for a certificate of registration;
- (b) providing for the keeping of a register of bee-keepers;
- (c) prescribing the books and records that shall be kept by bee-keepers and by persons who sell bees or package bees;
- (d) prescribing the returns that shall be made to the Provincial Apiarist by bee-keepers and by persons who sell bees or package bees;

- (*e*) requiring and prescribing the reports that shall be made to the Provincial Apiarist by inspectors;
  - (*f*) designating any area in Ontario as a queen bee breeding area and regulating the keeping of bees in such area;
  - (*g*) designating any disease of bees to be a disease within the meaning of this Act;
  - (*h*) prescribing forms and providing for their use;
  - (*i*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 33, s. 25.
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CHAPTER 44

The Bills of Sale Act

1. In this Act,

(a) “actual and continued change of possession” means such change of possession as is open and reasonably sufficient to afford public notice thereof;

(b) “creditors” includes creditors of a seller suing on behalf of themselves and other creditors, an assignee in insolvency or trustee in bankruptcy of a seller, the liquidator of a company in a winding up proceeding under the *Winding-up Act* (Canada), and an assignee for the general benefit of creditors, as well as creditors having executions against the goods of a seller in the hands of a sheriff or other officer;

(c) “goods” has the same meaning as in *The Sale of Goods Act*. 1967, c. 7, s. 1.

Interpre-  
tation

R.S.C. 1952,  
c. 296

R.S.O. 1970,  
c. 421
2. This Act does not apply to an assignment for the general benefit of creditors to which *The Assignments and Preferences Act* applies. 1967, c. 7, s. 2.

Assignment  
for benefit  
of creditors  
excepted  
R.S.O. 1970,  
c. 34
3. Every sale of goods, not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods sold, shall be evidenced by a writing signed by the seller, and such writing is a bill of sale under this Act, and such bill of sale, accompanied by an affidavit of an attesting witness thereto of the due execution of the bill of sale and an affidavit of the buyer that the sale is *bona fide* and for good consideration, as set forth in the bill of sale, and not for the purpose of holding or enabling the buyer to hold the goods mentioned therein against the creditors of the seller, shall be registered as provided by this Act; otherwise the sale is void as against the creditors of the seller and as against subsequent buyers and mortgagees in good faith. 1967, c. 7, s. 3.

Sale of  
goods not  
attended  
with  
delivery
4. Every covenant, promise or agreement to make a sale of goods shall be evidenced by a writing and shall be deemed to be a sale of goods within the meaning of this Act. 1967, c. 7, s. 4.

Effect of  
agreement  
to make a  
sale
5. This Act applies to a sale of goods that may not be the property of or in the possession, custody or control of the seller or any person on his behalf at the time of the sale, and notwithstanding that the goods may be intended to be delivered at some future time, or that they may not at the time of the sale be actually

Bills of  
sale of  
goods not in  
possession  
of seller  
or intended  
for future  
delivery



procured or provided or fit or ready for delivery, or that some act may be required for the making or completing of the goods or rendering them fit for delivery. 1967, c. 7, s. 5.

When subsequent possession not to validate sale otherwise void

**6.** A sale of goods that is void under this Act shall not by the subsequent taking of possession of the goods by the buyer be thereby made valid as against persons who became creditors, buyers or mortgagees in good faith before such taking of possession. 1967, c. 7, s. 6.

Effect of bill of sale

**7.** Except as otherwise provided by this or any other Act, a bill of sale is effective according to its terms between the parties to it and against third parties. 1967, c. 7, s. 7.

Where bills of sale, etc., to be registered

**8.—**(1) Subject to subsection 2, bills of sale and renewal statements under this Act shall be registered in the office of the clerk of the county or district court of the county or district in which the goods sold are situate at the time of the execution of the bill of sale.

Haliburton

(2) Where the goods are situate in the Provisional County of Haliburton, bills of sale and renewal statements shall be registered in the office of the clerk of the county court of the County of Victoria. 1967, c. 7, s. 8.

Limitation of time for registration

**9.—**(1) In the case of a county, a bill of sale shall be registered within five days from the execution thereof.

Haliburton and districts

(2) In the case of the Provisional County of Haliburton or of a district, a bill of sale shall be registered within ten days from the execution thereof.

Computation of time for registration

(3) Where there are more sellers than one, the time shall be computed from the execution of the instrument by the last seller who executed it. 1967, c. 7, s. 9.

Extension of time

**10.—**(1) Where a bill of sale is not registered within the time prescribed by this Act, a judge of a county or district court on application may, upon such terms and conditions and with such notice, if any, as he may order, extend the time for registration upon being satisfied that no interest of any other person will be prejudiced by such extension, but, in the event that it later appears that the late registration has prejudiced the rights that any person acquired before the late registration, the late registration shall be presumed not to have been done in conformity with this Act, and the rights that such person acquired before the late registration shall be determined on that basis.

Idem

(2) A copy of an order made under subsection 1 shall for the purpose of registration be attached to the bill of sale to which the order relates. 1967, c. 7, s. 10.

**11.** A bill of sale shall not be registered unless, in addition to the other requirements of this Act, it contains and legibly sets forth at least, Contents of bill of sale for registration

- (a) the full name and address of the seller;
- (b) the full name and address of the buyer;
- (c) the date of execution of the bill of sale;
- (d) a description of the goods sold sufficient to identify them; and
- (e) the terms and conditions of the bill of sale. 1967, c. 7, s. 11.

**12.**—(1) An affidavit of *bona fides* required by section 3 may be made by one of two or more buyers or by his or their agent if the deponent is aware of all the circumstances connected with the bill of sale and is authorized in writing to take the bill of sale. Who may make affidavits of *bona fides*

(2) If a bill of sale under this Act is made to a corporation, the affidavit of *bona fides* may be made by any officer or agent thereof authorized to do so by resolution of the directors. In the case of a corporation

(3) Where an affidavit of *bona fides* is made by an agent of the buyer or by an officer or agent of a corporation, it shall state that the deponent is aware of all the circumstances connected with the bill of sale and has personal knowledge of the facts deposed to. Affidavits made by agents or officers

(4) When a bill of sale is made to a corporation having branches, agencies or offices opened pursuant to statutory authority, the affidavit of *bona fides* may be made by the manager, assistant manager or accountant of any such branch, agency or office without being authorized so to do by resolution of the directors, and the affidavit shall state that the deponent is aware of all the circumstances connected with the bill of sale and has personal knowledge of the facts deposed to. Branch managers, etc., may make affidavit of *bona fides*

(5) A copy of an authority referred to in this section shall, for the purposes of registration, be attached to the bill of sale to which the authority relates. Agent's authority to be attached to bill of sale

(6) An affidavit of *bona fides* may, in the case of the death of the buyer, be made by any of his next of kin or by his executor or administrator if the deponent is aware of all the circumstances connected with the bill of sale. 1967, c. 7, s. 12. Affidavit of executor, etc.

**13.**—(1) The registration of every bill of sale made under *The Bills of Sale and Chattel Mortgages Act* before the day on which this section comes into force expires on the third anniversary date of the original registration after that day unless a renewal statement in the prescribed form containing the particulars mentioned in section 11 is registered before such anniversary date. Expiry of existing registrations R.S.O. 1970, c. 45

Idem,  
future  
registrations

(2) Every registration made under this Act expires three years after the date of registration, unless a renewal statement in the prescribed form is registered before the three-year period expires.

Effect of  
registration  
of renewal  
statement

(3) The registration of a renewal statement extends the effect of the original registration for three years from the date of registration of the renewal statement, and so on from time to time.

Extension  
of time

(4) Where a renewal statement is not registered within the time prescribed by this section, a judge of a county or district court on application may, upon such terms and conditions and with such notice, if any, as he may order, extend the time for registration upon being satisfied that no interest of any other person will be prejudiced by such extension, but, in the event that it later appears that any such registration within the period so extended has prejudiced the rights that any person acquired before the registration, such registration shall be presumed not to have been done in conformity with this Act for the purpose of determining the rights that such person acquired before the registration.

Idem

(5) A copy of an order made under subsection 4 shall for the purposes of registration be attached to the renewal statement to which the order relates. 1967, c. 7, s. 13.

Certified  
copies

**14.**—(1) Upon the request of any person, the clerk shall furnish a copy of any document registered in his office under this Act, and of any endorsement thereon, certified under his hand and the seal of the court.

Proof of  
registration

(2) A copy of any document and of any endorsement thereon certified under subsection 1 is *prima facie* evidence that the document was registered according to the endorsement thereon. 1967, c. 7, s. 14.

Index

**15.** The clerk shall make an entry of every bill of sale and renewal statement registered in his office under this Act in an index to be kept for that purpose. 1967, c. 7, s. 15.

Inspection  
of index

**16.** During the regular office hours of the clerk, any person may require a search to be made of the index of documents registered under this Act and may inspect any document registered under this Act. 1967, c. 7, s. 16.

Fees

**17.** The clerk is entitled for services under this Act to the fees prescribed by the regulations made under this Act. 1967, c. 7, s. 17.

Regulations

**18.** The Lieutenant Governor in Council may make regulations,

- (a) requiring the payment of fees and prescribing the amounts thereof;
- (b) prescribing forms and providing for their use;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1967, c. 7, s. 18.

**19.** This Act does not come into force until a day to be named by the Lieutenant Governor by his proclamation. 1967, c. 7, s. 20 (1). Commence-  
ment of  
Act by  
proclamation

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## CHAPTER 45

# The Bills of Sale and Chattel Mortgages Act

## 1. In this Act,

Interpre-  
tation

- (a) “actual and continued change of possession” means such change of possession as is open and reasonably sufficient to afford public notice thereof;
- (b) “creditors” includes creditors of the mortgagor or bargainor suing on behalf of themselves and other creditors, an assignee in insolvency or trustee in bankruptcy of a mortgagor or bargainor, the liquidator of a company in a winding up proceeding under the *Winding-up Act* (Canada), and an assignee for the general benefit of creditors, as well as creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of a sheriff or other officer; R.S.C. 1952,  
c. 296
- (c) “debentures” includes debentures, debenture stock, notes, bonds or other securities that contain or are entitled to the benefit of a mortgage charge or floating charge on the personal assets of any company;
- (d) “mortgage” includes a conveyance intended to operate as a mortgage and any deed or instrument by which a charge or floating charge is created upon personal property; (*See also section 20.*)
- (e) “prescribed form” means a form provided or approved under this Act by the registrar;
- (f) “registrar” means the registrar of personal property security appointed under *The Personal Property Security Act*; R.S.O. 1970,  
c. 344
- (g) “rolling stock” means any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels over or upon the rails or tracks of a railway. R.S.O. 1960, c. 34, s. 1; 1970, c. 18, s. 1 (1).

**2.** This Act does not apply to an assignment for the general benefit of creditors to which *The Assignments and Preferences Act* applies. R.S.O. 1960, c. 34, s. 2.

Assignment  
for benefit  
of creditors  
excepted  
R.S.O. 1970,  
c. 34

Mortgages  
of registered  
vessels  
excepted

**3.** This Act does not apply to mortgages of vessels registered under any Act in that behalf. R.S.O. 1960, c. 34, s. 3.

Registration  
of mortgages  
of goods

**4.** Every mortgage of goods and chattels in Ontario that is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged shall be registered as provided in this Act, together with,

- (a) the affidavit of an attesting witness thereto of the due execution of such mortgage, which affidavit shall also state the date of the execution of the mortgage; and
- (b) the affidavit of the mortgagee that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that the mortgage was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor, or of preventing the creditors of such mortgagor from obtaining payment of any claim against him or, in cases falling within section 5, the affidavit therein prescribed. R.S.O. 1960, c. 34, s. 4.

Mortgage,

**5.** Where a mortgage of goods and chattels is made,

to secure  
future  
advances or  
endorse-  
ments

- (a) to secure the mortgagee for advances made in pursuance of an agreement in writing to make future advances for the purpose of enabling the borrower to enter into or to carry on business with such advances, the time of repayment thereof not being longer than one year from the making of the agreement; or

to secure  
against  
liability  
as surety

- (b) to secure the mortgagee against the endorsement of any bill of exchange or promissory note or other liability by him incurred for the mortgagor, such liability not extending for a longer time than one year from the date of the mortgage,

the affidavit of the mortgagee shall state that the mortgage truly sets forth the agreement and truly states the extent and amount of the advances intended to be made or liability intended to be created by the agreement and covered by the mortgage, and that the mortgage is entered into in good faith and for the express purpose of securing the mortgagee repayment of his advances or against the liability intended to be created, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor nor to prevent such creditors from recovering any claims that they may have against the mortgagor. R.S.O. 1960, c. 34, s. 5.

**6.**—(1) Where a mortgage has been made out of Ontario with reference to goods and chattels not then in Ontario which if made in Ontario with reference to goods and chattels in Ontario would come within this Act and the goods and chattels are brought into Ontario, the mortgage is subject to this Act, but the period for registering in the office of the clerk of the county or district court of the county or district to which the property mortgaged is brought is within sixty days after the date on which the goods and chattels are brought into Ontario, and a true copy of the mortgage may be registered in lieu of the original thereof.

Mortgage made out of Ontario and goods subsequently brought into Ontario

(2) A mortgage may be registered under subsection 1 notwithstanding it does not comply with the provisions of,

- (a) section 4, relating to affidavits of execution and *bona fides*; or
- (b) section 14, relating to the contents of the mortgage. 1970, c. 18, s. 2.

**7.** If for any reason it is shown to be necessary or expedient, the county judge may permit a copy verified by affidavit to be registered in lieu of the original mortgage. R.S.O. 1960, c. 34, s. 6.

When verified copy may be registered

**8.** If the mortgage and affidavits are not registered as by this Act provided, the mortgage is absolutely null and void as against creditors of the mortgagor and as against subsequent purchasers or mortgagees in good faith for valuable consideration. R.S.O. 1960, c. 34, s. 7.

Effect of non-registration

**9.** Every sale of goods and chattels, not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under this Act, and such conveyance, accompanied by an affidavit of an attesting witness thereto of the due execution of the conveyance and an affidavit of the bargainee that the sale is *bona fide* and for good consideration, as set forth in the conveyance, and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor, shall be registered as hereinafter provided; otherwise the sale is absolutely null and void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. R.S.O. 1960, c. 34, s. 8.

Requirements of sale of goods not attended with delivery

**10.** A mortgage or conveyance is not invalidated by reason only of clerical errors or omissions therein or in any prescribed form relating thereto or in the affidavits of execution and *bona fides* unless such errors or omissions are calculated to mislead or deceive or have the effect of misleading or deceiving. R.S.O. 1960, c. 34, s. 9; 1970, c. 18, s. 3.

When defects not to invalidate

Registration  
after  
statutory  
period

**11.** Where a mortgage or conveyance is not duly registered within the time prescribed by this Act, the judge of the county or district court may permit it to be registered at a later date upon being satisfied by affidavit, or affidavits, that the failure to register arose from misadventure, ignorance or some other cause that constitutes a reasonable excuse and that the parties have acted and are acting in good faith, but in such case the mortgage or conveyance shall, as against creditors of the mortgagor, or as against subsequent purchasers or mortgagees in good faith for valuable consideration, be deemed to have been executed and to be effective only from the date of registration. R.S.O. 1960, c. 34, s. 10.

Where  
Crown  
mortgagee

**12.** Where the Crown is mortgagee or bargainee, the provisions of this Act as to an affidavit of *bona fides* do not apply. R.S.O. 1960, c. 34, s. 11.

When  
mortgage to  
take effect

**13.** Every such mortgage or conveyance operates and takes effect upon, from and after the day and time of the execution thereof. R.S.O. 1960, c. 34, s. 12.

Contents of  
documents  
required  
to be  
registered

**14.** Every mortgage, conveyance, or agreement required to be registered under this Act on or after the 1st day of January, 1968, shall, in addition to the other requirements of this Act, contain and legibly set forth at least,

- (a) the name and address of the mortgagor or bargainor;
- (b) the name and address of the mortgagee or bargainee and of his assignee, if any;
- (c) the date of execution of the mortgage, conveyance or agreement;
- (d) a description of the goods and chattels mortgaged or sold sufficient to identify them; and
- (e) the terms and conditions of the mortgage, conveyance or agreement. 1967, c. 8, s. 1; 1970, c. 18, s. 4 (1-3).

Mortgages,  
etc., of  
goods not in  
possession of  
mortgagor or  
intended for  
future  
delivery

**15.** This Act extends to a mortgage or sale of goods and chattels that may not be the property of or in the possession, custody or control of the mortgagor or bargainor or any person on his behalf at the time of the making of the mortgage or sale, and notwithstanding that such goods or chattels may be intended to be delivered at some future time, or that they may not at the time of the making of the mortgage or sale be actually procured or provided or fit or ready for delivery, or that some act may be required for the making or completing of such goods and chattels or rendering them fit for delivery. R.S.O. 1960, c. 34, s. 14.



**16.**—(1) Every affidavit of *bona fides* required by this Act and every affidavit required upon the renewal of a chattel mortgage may be made by one of two or more bargainees or mortgagees, or by his or their agent if aware of all the circumstances and properly authorized in writing to take the conveyance or to take or renew the mortgage, or in the case provided for by section 5, to make the agreement and to take the mortgage.

Who may make affidavits of *bona fides* and on renewal of mortgage

(2) If the mortgage or conveyance is made to a corporation, the affidavit may be made by the president, vice-president, manager, assistant manager, secretary or treasurer, or by any other officer or agent thereof authorized to do so by resolution of the directors.

In the case of a corporation

(3) Where the affidavit is made by the agent of the mortgagee or bargainee, or by an officer or agent of a corporation, it shall state that the deponent is aware of all the circumstances connected with the mortgage or conveyance and has personal knowledge of the facts deposed to.

Affidavits made by agents or officers

(4) If the mortgage or conveyance is made to a corporation having branches, agencies or offices opened pursuant to statutory authority, the affidavit may be made by the manager, assistant manager or accountant of any such branch, agency or office without being authorized so to do by resolution of the directors and the affidavit shall state that the deponent is aware of all the circumstances connected with the mortgage or conveyance and has personal knowledge of the facts deposed to. R.S.O. 1960, c. 34, s. 15.

Branch managers, etc., may make affidavit of *bona fides* or on renewal

**17.** The authority in writing referred to in section 16, or a copy of such authority, shall be attached to and filed with the mortgage or conveyance. R.S.O. 1960, c. 34, s. 16.

Agent's authority to be attached to mortgage

**18.** Any affidavit by this Act required to be made by the mortgagee or by the bargainee may in the case of his death be made by any of his next of kin or by his executor or administrator or, if the mortgage has been assigned, by his assignee. R.S.O. 1960, c. 34, s. 17.

Affidavit of executor, administrator, next of kin or assignee

**19.** An authority to take a conveyance or to take or renew a mortgage may be a general one to take all or any conveyances to the bargainee, or to take and renew all or any mortgages to the mortgagee. R.S.O. 1960, c. 34, s. 18.

General authority to take or renew mortgages

**20.** Every covenant, promise or agreement to make, execute or give a mortgage of goods and chattels shall be in writing, and shall be deemed to be a mortgage within the meaning of this Act. R.S.O. 1960, c. 34, s. 19.

Effect of contract to give a chattel mortgage

**21.** Every covenant, promise or agreement to make a sale of goods and chattels shall be in writing and shall be deemed to be a sale of goods and chattels within the meaning of this Act. R.S.O. 1960, c. 34, s. 20.

Effect of contract to make a sale



Where  
instruments  
to be  
registered

**22.**—(1) Except in the case of the Provisional County of Haliburton, the instruments mentioned in the preceding sections shall be registered in the office of the clerk of the county or district court of the county or district in which the property mortgaged or sold is at the time of the execution thereof.

Haliburton

(2) Where the property is situate in the Provisional County of Haliburton, the instrument shall be registered in the office of the clerk of the county court of the County of Victoria.

Limitation  
of time for  
registration

(3) In the case of a county, the instrument shall be registered within five days from the execution thereof.

Haliburton  
and  
districts

(4) In the case of the Provisional County of Haliburton and of a district, the instrument shall be registered within ten days from the execution thereof.

Filing and  
endorsing

(5) The clerk shall file the instrument and endorse thereon the time of receiving it.

Certificate of  
registration

(6) The clerk shall give to the person registering an instrument a certificate of its registration if so requested.

Computation  
of time for  
registration

(7) Where there are more mortgagors or grantors than one, the time shall be computed from the execution of the instrument by the last mortgagor or grantor. R.S.O. 1960, c. 34, s. 21.

Procedure  
when mort-  
gaged goods  
are removed

**23.** In the event of the permanent removal of the goods and chattels from the county, provisional county or district in which the goods and chattels were at the time of the execution of the mortgage to another county, provisional county or district before the payment and discharge of the mortgage, a copy of the mortgage and of the affidavits, documents, instruments and statements relating thereto, certified under the hand of the clerk in whose office it was registered, and under the seal of the court, shall be filed with the proper officer as mentioned in section 22, of the county, provisional county or district to which the goods and chattels are removed within two months from such removal, otherwise the mortgage is null and void as against creditors of the mortgagor and as against subsequent purchasers and mortgagees in good faith for valuable consideration. R.S.O. 1960, c. 34, s. 22.

Manner of  
registration

**24.** The clerk shall number every instrument or copy filed in his office, and shall enter in alphabetical order in a book to be provided by him the names of all the parties thereto, with the number endorsed thereon opposite to each name, and such entry shall be repeated alphabetically under the name of every party thereto. R.S.O. 1960, c. 34, s. 23.

Renewal of  
mortgages

**25.**—(1) Except as provided in subsection 2 and subject to section 29, every mortgage registered under this Act ceases to be valid, as against the creditors of the person making it and as

against subsequent purchasers and mortgagees in good faith for valuable consideration, after the expiration of one year from the day of the registration thereof unless, within thirty days next preceding the expiration of such term of one year, a statement in Form 1, exhibiting the interest of the mortgagee, his executors, administrators or assigns in the mortgaged property, and showing the amount still due for principal and interest thereon, is registered in the proper office, as mentioned in section 22, of the county, provisional county or district in which the mortgage was registered, with an affidavit of the mortgagee that the statement is true and that the mortgage has not been kept on foot for any fraudulent purpose.

(2) Where there has been a permanent removal of the goods and chattels, as mentioned in section 23, and a certified copy of the mortgage has been registered as required by that section, the statement and affidavit shall be registered in the office in which the certified copy is registered, and the period of one year shall be reckoned from the date of the registration of the certified copy. Case of permanent removal of goods

(3) Where the two months mentioned in section 23 have not expired when the period of one year mentioned in subsection 1 expires, and a certified copy of the mortgage has not been registered as provided by section 23, the statement and affidavit may be registered in the office in which the mortgage was registered. Idem

(4) If any *bona fide* error or mistake is made in the statement, either by the omission to give any credit or by any miscalculation in the computation of interest or otherwise, the statement and the mortgage therein referred to are not invalidated if the mortgagee, his executors, administrators or assigns, within two weeks after the discovery of the error or mistake, registers an amended statement and affidavit referring to the former statement and clearly pointing out the error or mistake therein and correcting the same. Remedying error or mistake made in statement

(5) If before the registration of such amended statement and affidavit any creditor or purchaser or mortgagee in good faith for valuable consideration has made any *bona fide* advance of money or given any valuable consideration to the mortgagor, or has incurred any costs in proceedings taken on the faith of the amount due on the mortgage being as stated in the renewal statement and affidavit as first registered, the mortgage, as to the amount so advanced or the valuable consideration given or costs incurred by such creditor, purchaser or mortgagee, is, as against such creditor, purchaser or mortgagee, good only for the amount mentioned in the renewal statement and affidavit first registered. Advances made in good faith protected

(6) The statement and affidavit shall be deemed one instrument and shall be registered and entered as provided by section 24. Manner of registering

Annual  
registration  
of renewals

(7) Another statement in accordance with subsection 1, verified as required by that subsection, shall be registered in the proper office according to section 22 or subsection 2 of this section, as the case may be, within thirty days next preceding the expiration of one year from the day of the registration of the statement required by subsection 1, otherwise the mortgage ceases to be valid as against the creditors of the mortgagor, and as against subsequent purchasers and mortgagees in good faith for valuable consideration, and so on from year to year, that is to say, another verified statement shall be registered within thirty days next preceding the expiration of one year from the day of the registration of the former statement, otherwise the mortgage ceases to be valid as aforesaid.

By whom  
affidavits on  
renewals  
may be  
made

(8) If the affidavit is made by an assignee, or by any of his next of kin, or by his executor or administrator, the assignment or the several assignments through which he claims shall be registered with the statement and affidavit, unless they have been already registered.

Assignment  
for benefit  
of creditors  
excepted  
R.S.O. 1970,  
c. 34

(9) Subsection 8 does not apply to an assignment for the benefit of creditors under *The Assignments and Preferences Act*, or any other Act of Ontario or of Canada relating to assignments for the benefit of creditors, if the assignment is referred to in the statement and notice thereof has been given in manner required by law.

Affidavit by  
trustee in  
bankruptcy

(10) Where a mortgagee has become bankrupt, the affidavit may be made by the trustee in bankruptcy who shall report to the court upon knowledge, information and belief.

Registration  
of renewals  
after  
statutory  
period

(11) Where a statement of renewal is not duly registered within the time prescribed by this section, the judge of the county or district court may permit it to be registered at a later date upon being satisfied by affidavit, or affidavits, that the failure to register arose from misadventure, ignorance or some other cause that constitutes a reasonable excuse, and that the parties have acted and are acting in good faith, but in such case the renewal statement shall, as against creditors of the mortgagor or as against subsequent purchasers or mortgagees in good faith for valuable consideration who have purchased or have given credit after the expiry of the mortgage but before registration, be deemed to have been executed and to be effective only from the date of registration, and, for the purposes of registration of any further statement of renewal, such statement of renewal shall be deemed to have been registered upon the actual date of registration. R.S.O. 1960, c. 34, s. 24.

Mortgages  
where county  
or district  
boundaries  
altered

**26.** Where a new county or district is formed or territory is added to a county or district, every mortgage that under this Act would otherwise require to be renewed in the county or district of which the territory forming or added to the new county or district



was part shall be renewed in the office of the proper officer of the county or district so formed or to which such territory is added, and upon such renewal a copy of the mortgage, certified under the hand of the officer in whose office it was registered and the seal of the court, shall be registered with the renewal statement and affidavit. R.S.O. 1960, c. 34, s. 25.

**27.** Sections 25 and 26 do not apply where the mortgage is made to the Crown. R.S.O. 1960, c. 34, s. 26.

Crown not affected

**28.** A mortgage or sale declared by this Act to be void or that under section 25 has ceased to be valid as against creditors and subsequent purchasers or mortgagees shall not by the subsequent taking of possession of the goods and chattels mortgaged or sold by the mortgagee or bargainee be thereby made valid as against persons who became creditors, purchasers or mortgagees before such taking of possession. R.S.O. 1960, c. 34, s. 27.

When subsequent possession not to validate mortgage or sale otherwise void

**29.**—(1) In the case of a mortgage of goods and chattels made by a corporation to a bondholder or to a trustee for the purpose of securing the bonds or debentures of the corporation, it is sufficient if the affidavit of *bona fides* is to the effect that the mortgage was executed in good faith and for the express purpose of securing the payment of the bonds or debentures referred to therein, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagors, or of preventing the creditors of such mortgagors from obtaining payment of any claim against them.

Affidavits of *bona fides* where mortgage given by corporation to secure bonds or debentures

(2) Where the head office of the corporation is not within Ontario, the mortgage may be registered within thirty days instead of five days, as provided by section 22.

Where head office not in Ontario

(3) Any such mortgage may be renewed in the manner and with the effect provided by section 25 by the filing of a statement by the mortgagee or one of the mortgagees exhibiting the interest of the mortgagee or mortgagees in the property claimed by virtue of the mortgage, and showing the amount of the bond or debenture debt that it was made to secure, and showing the extent or amount of the liability still secured by the mortgage, together with an affidavit of the person making such statement that the statement is true to the best of his knowledge, information and belief, and that the mortgage has not been kept on foot for any fraudulent purpose, and such statement shall be filed instead of the statement required by section 25.

Renewal of mortgages

(4) Where the mortgage is made as a security for bonds or debentures and the by-law authorizing the issue of the bonds or debentures as a security for which the mortgage was made, or a copy thereof certified under the hand of the president or vice-president and secretary of the corporation and verified by an

Renewal of mortgages given to secure debentures of corporations

affidavit thereto attached or endorsed thereon and having the corporate seal attached thereto, is registered with the mortgage, it is not necessary to renew the mortgage, but it shall in such case continue to be as valid as if it had been duly renewed as in this Act provided. R.S.O. 1960, c. 34, s. 28.

Mortgage of  
rolling stock

**30.**—(1) In the case of a mortgage securing bonds made by a corporation on rolling stock owned by it, it is sufficient for the purposes of this Act if the mortgage or a copy thereof and the affidavit, referred to in subsection 1 of section 29, is filed in the office of the Minister of Financial and Commercial Affairs within the time limited by this Act for registering a mortgage to secure bonds or debentures of a corporation.

Where  
renewals  
to be filed

(2) The office of the Minister of Financial and Commercial Affairs is the place for filing the renewal statements of any such mortgage of rolling stock where renewal thereof is necessary under this Act. R.S.O. 1960, c. 34, s. 29, *amended*.

Mortgage to  
secure bonds,  
etc., on  
leased roll-  
ing stock

**31.**—(1) In the case of a mortgage, hypothec or other instrument made by a corporation securing bonds, debentures, notes or other securities on any railway rolling stock that is subject to any lease, conditional sale or bailment to a corporation, it or a copy thereof may be filed in the office of the Minister of Financial and Commercial Affairs within twenty-one days from the execution thereof, and if so filed is as valid as against creditors of such corporation and subsequent purchasers as if it had been registered pursuant to this Act. R.S.O. 1960, c. 34, s. 30 (1); 1966, c. 13, s. 1, *amended*.

Notice in  
*Gazette*

(2) Notice of the filing shall forthwith thereafter be given in *The Ontario Gazette*.

Application  
of ss. 29, 30  
R.S.O. 1970,  
c. 88

(3) Sections 29 and 30 and this section do not apply to any instrument registered under *The Corporation Securities Registration Act*. R.S.O. 1960, c. 34, s. 30 (2, 3).

Proof of  
registration

**32.** A copy of any instrument or document registered under this Act and of any endorsement thereon certified under the hand of the officer with whom it is registered and under the the seal of the court, or where it is filed in the office of the Minister of Financial and Commercial Affairs under the hand of the Minister of Financial and Commercial Affairs or Deputy Minister of Financial and Commercial Affairs, shall be received as evidence by all courts that the instrument or document was received and registered or filed according to the endorsement thereon. R.S.O. 1960, c. 34, s. 31, *amended*.

Discharge

**33.**—(1) A mortgage registered under this Act may be discharged by registering in the office in which the mortgage is registered a certificate in Form 2, signed by the mortgagee, his executors, administrators or assigns. R.S.O. 1960, c. 34, s. 32.



(2) In subsection 1, “discharged” means discharged in whole or in part and, where a mortgage registered under this Act is discharged in part, section 34 and Form 2 apply *mutatis mutandis*. 1960-61, c. 6, s. 1. Interpretation

**34.**—(1) The officer with whom the mortgage is registered upon receiving such certificate, proved by the affidavit of a subscribing witness, shall, at each place where the number of the mortgage has been entered, with the name of any of the parties thereto, in the book kept by him under section 24, or where otherwise in such book the mortgage has been entered, write the words “Discharged by Certificate No. (*stating the number of the certificate*)”, and to such entry the officer shall subscribe his name, and he shall also endorse the fact of the discharge upon the instrument discharged, and shall subscribe his name to the endorsement. Entering certificates of discharge

(2) Where a mortgage has been renewed under section 25, the endorsement or entries required by subsection 1 need only be made upon the statement and affidavit filed on the last renewal, and at the entries of the statement and affidavit in such book. Entries of renewal

(3) A certificate of discharge by an assignee shall not be registered unless the assignment is registered. When to be registered

(4) The assignment shall, upon proof by the affidavit of a subscribing witness, be registered, numbered and entered in such book in the same manner as a mortgage. R.S.O. 1960, c. 34, s. 33. Entry of assignment of mortgages

**35.**—(1) Every person shall, on payment of the proper fees, have access to and be entitled to inspect the books containing records or entries of mortgages, conveyances or assignments registered. Inspection of books recording instruments

(2) A person desiring such access or inspection shall not be required, as a condition to his right thereto, to furnish the names of the persons in respect of whom such access or inspection is sought. Idem

(3) The clerk shall, upon demand, produce for inspection any such mortgage, conveyance, assignment or copy thereof registered in his office. R.S.O. 1960, c. 34, s. 34. Production of instruments

**36.** The clerk is entitled for services under this Act in connection with chattel mortgages to the fees prescribed by the regulations made under *The Personal Property Security Act*, and, in connection with conveyances, to the fees prescribed by the regulations made under this Act. 1967, c. 8, s. 2; 1970, c. 18, s. 5. Fees R.S.O. 1970, c. 344

Registra-  
tions are for  
3 years when  
accompanied  
by  
prescribed  
form of  
statement

**37.** Notwithstanding anything in this Act, the registration of a chattel mortgage or a renewal statement that at the time the instrument was tendered for registration was accompanied by a statement in the prescribed form, has effect for three years after the date of registration instead of one year as provided by section 25. 1970, c. 18, s. 6.

When  
instrument  
tendered for  
registration  
to be accom-  
panied by  
statement

**38.** Where required by the regulations made under this Act,

- (a) a mortgage or conveyance; or
- (b) an assignment, renewal or discharge of a mortgage,

shall, when tendered for registration as provided by this Act, be accompanied by a statement that sets forth on the prescribed form the information prescribed by the regulations. 1970, c. 18, s. 7, *part*.

Regulations

**39.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional duties of the clerks of the county and district courts in connection with the registration of documents under this Act;
- (b) requiring or permitting a statement to accompany any instrument tendered for registration under this Act, prescribing the information to be contained in such statement and the manner of recording such information, and for requiring that the forms of statements to be used shall be those provided or approved by the registrar;
- (c) providing for the approval by the registrar of the forms of statements to accompany documents tendered for registration under this Act, and for the withdrawal by the registrar of any such approval;
- (d) requiring the payment of fees and prescribing the amounts thereof;
- (e) providing that clause *d* of section 27 of *The Interpretation Act* does not apply to a prescribed form;
- (f) defining any expression used in the regulations;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1970, c. 18, s. 7, *part*.

R.S.O. 1970,  
c. 225

Repeal of  
Act by  
proclamation  
R.S.O. 1970,  
cc. 344, 44

**40.** This Act is repealed on a day to be named by the Lieutenant Governor by his proclamation and thereafter any reference in any Act or regulation to *The Bills of Sale and Chattel Mortgages Act* as it applies to chattel mortgages shall be deemed to be a reference to *The Personal Property Security Act* and as it applies to bills of sale shall be deemed to be a reference to *The Bills of Sale Act*. 1967, c. 8, s. 4.

FORM 1

(Section 25)

RENEWAL STATEMENT

Statement exhibiting the interest of . . . . . in the property mentioned in the mortgage dated the . . . . . day of . . . . ., 19 . . . . , made between . . . . . of . . . . . and . . . . . of . . . . . and registered in the office of the Clerk of the . . . . . Court of the . . . . . on the . . . . . day of . . . . , 19 . . . . , and of the amount due for principal and interest thereon.

The said . . . . . is still the mortgagee of the property and has not assigned the mortgage (*or* . . . . . is the assignee of the mortgage by virtue of an assignment thereof from . . . . . to him dated the . . . . . day of . . . . , 19 . . . . ) (*or as the case may be*).

The amount still due for principal and interest on the mortgage is \$ . . . . .

A.B.  
(*Signature of Mortgagee or Assignee*)

County (*or* District) of . . . . .

To wit,  
I, . . . . . of the . . . . . of . . . . . in the . . . . . of . . . . . the mortgagee named in the mortgage mentioned in the foregoing (*or* annexed) statement (*or* assignee of the mortgagee named in the mortgage mentioned in the foregoing [*or* annexed] statement) (*as the case may be*), make oath and say:

- 1. That the foregoing (*or* annexed) statement is true.
- 2. That the mortgage mentioned in the statement has not been kept on foot for any fraudulent purpose.

A.B.  
Sworn before me, etc.

## FORM 2

(Section 33)

## DISCHARGE OF MORTGAGE

To the Clerk of the ..... Court of the ..... of .....

I, ..... of ..... do certify that ..... has satisfied all money due or to grow due on a certain mortgage made by ..... to ....., which mortgage bears date the ..... day of ....., 19 ....., and was registered (or in case the mortgage has been renewed was last renewed), in the office of the Clerk of the ..... Court of the ..... of ..... on the ..... day of ....., 19 ....., as No. .... (here mention the date of registration of each assignment thereof and the names of the parties, or mention that the mortgage has not been assigned, as the fact may be); and that I am the person entitled by law to receive the money; and that the mortgage is therefore discharged.

Witness my hand this ..... day of ....., 19 .....

Witness

C.D.

A.B.

(Signature of Mortgagee or Assignee)

R.S.O. 1960, c. 34, Form 2.

## CHAPTER 46

## The Blind Workmen's Compensation Act

**1.** In this Act,Interpre-  
tation

- (a) "blind workman" means a workman as defined by *The Workmen's Compensation Act* who has a central visual acuity in his better eye reading 6-60 or 20-200 or less; R.S.O. 1970,  
c. 505
- (b) "Board" means The Workmen's Compensation Board;
- (c) "Department" means the Department of Labour;
- (d) "employer" means an employer as defined by *The Workmen's Compensation Act* who has in his employ a blind workman;
- (e) "full cost of compensation" means the compensation, burial expenses, cost of furnishing medical aid, and all other amounts payable under or by virtue of Part I of *The Workmen's Compensation Act* by reason of a blind workman meeting with an accident for which he would be entitled to compensation under such Act, and includes the capitalized sum or present value of the sum required as determined by the Board to provide for future payments of compensation to the pensioner or his dependants;
- (f) "Institute" means The Canadian National Institute for the Blind. R.S.O. 1960, c. 36, s. 1; 1968, c. 8, s. 1.

**2.** Where the full cost of compensation exceeds \$50, the Department shall, in the case of industries coming under Schedule 1 of the regulations under *The Workmen's Compensation Act*, pay the compensation to the board by way of reimbursement to the accident fund as defined by such Act, and, in the case of industries coming under Schedule 2 of such regulations, pay the compensation to the employer, such payment or payments to be made out of the moneys appropriated therefor by the Legislature upon receiving from the Board a certificate of the full cost of compensation, which certificate may be accepted by the Department without further proof. Reimburse-  
ment to  
employers R.S.O. 1960, c. 36, s. 2; 1968, c. 8, s. 2.

**3.** In making any award to a blind workman for injury by accident under *The Workmen's Compensation Act*, the Board may have regard to any previous awards made to him for injury under such Act. Prior  
awards R.S.O. 1960, c. 36, s. 3.



## Assessments

**4.** The assessment on an employer to be levied by the Board on the wages of a blind workman may be fixed by the Board at such an amount as may be considered fair, having regard to *The Workmen's Compensation Act*. R.S.O. 1960, c. 36, s. 4.

R.S.O. 1970,  
c. 505

Proper  
placement

**5.—(1)** Subject to subsection 2, the Institute has exclusive jurisdiction as to the nature of the work a blind workman shall do and as to the proper placement of such workman.

Assignment  
of powers  
and duties  
of the  
Institute

(2) Upon the recommendation of the Board, the Lieutenant Governor in Council may designate any other organization or institution to execute the powers and perform the duties assigned to the Institute under this Act and thereupon this Act shall be read as though the name of the organization or institution was substituted for the Institute. R.S.O. 1960, c. 36, s. 5.

Waiver of  
rights in  
case of  
improper  
placement

**6.** An employer giving employment to a blind workman without the consent or approval of the Institute, or changing the nature of such employment once approved by the Institute without the consent or approval of the Institute, shall be deemed to have waived all right to the benefit of this Act in respect of injury to such blind workman. R.S.O. 1960, c. 36, s. 6.

Access to  
blind  
workman

**7.** Officers of the Institute shall have access at all times to the place of employment of a blind workman with the knowledge and consent of the superintendent or foreman. R.S.O. 1960, c. 36, s. 7.

Certificates  
or other  
requisitions

**8.** The Institute shall provide the Board, upon request, with all such certificates or other material as may be required by the Board in the fulfilment of its duties. R.S.O. 1960, c. 36, s. 8.

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## CHAPTER 47

### The Boilers and Pressure Vessels Act

#### 1. In this Act,

Interpre-  
tation

1. “boiler” means a fired vessel in which gas or vapour may be generated or a gas, vapour or liquid may be put under pressure by heating, and includes any pipe, fitting and other equipment attached thereto or used in connection therewith, except that, where the expression is used in respect of the approval and registration of its design, “boiler” means a fired vessel in which gas or vapour may be generated or a gas, vapour or liquid may be put under pressure by heating;
2. “certificate of approval” means a certificate issued under this Act for a boiler or pressure vessel not inspected during fabrication or for a plant not inspected during installation;
3. “certificate of competency” means a certificate issued under this Act to a person qualified to inspect boilers, pressure vessels and plants, and includes a renewal thereof;
4. “certificate of inspection” means a certificate issued under this Act in respect of any inspection of a boiler, pressure vessel or plant, and includes a certificate of inspection issued by an insurer;
5. “chief inspector” means the chief inspector designated under this Act;
6. “design”, in reference to a boiler, pressure vessel or plant, means its plan or pattern, and includes drawings, specifications and, where required, the calculations and a model;
7. “design pressure” means the maximum pressure that a boiler, pressure vessel or plant is designed to withstand safely when operating normally;
8. “fired vessel” means a vessel that is directly heated by,
  - (a) a flame or the hot gases of combustion,
  - (b) electricity,
  - (c) rays from a radioactive source, or
  - (d) molecular agitation arising from the process of fission;

R.S.O. 1970,  
c. 224

9. "fitting" means a safety valve, stop valve, automatic stop-and-check valve, a blow-down valve, reducing valve, water gauge, gauge cock, pressure gauge, injector, test cock, fusible plug, regulating or controlling device, and pipe fittings, attached to or used in connection with a boiler, pressure vessel or plant;
10. "inspector" means an inspector appointed under this Act, and includes the chief inspector;
11. "insurer" means a person licensed under *The Insurance Act* to undertake boiler and machinery insurance as defined by that Act;
12. "low pressure boiler" means,
  - (a) a boiler in which gas or vapour is generated and that is intended to be operated or is operated at a gas or vapour pressure of not more than 15 pounds, or
  - (b) a boiler in which a liquid is heated but no gas or vapour is generated and that is intended to be operated or is operated at a liquid pressure of not more than 160 pounds and in which the liquid at the outlet does not exceed 250°F.;
13. "major repairs" means repairs that may affect the strength of a boiler, pressure vessel or plant;
14. "maximum allowable pressure" means the maximum pressure at which a boiler, pressure vessel or plant is permitted to be operated or used under this Act;
15. "Minister" means the Minister of Labour;
16. "owner" includes a person for the time being in possession of a boiler, pressure vessel or plant;
17. "periodic inspection" means an inspection made at intervals of other than twelve months;
18. "pipe" means any pipe attached to or connected with a boiler, pressure vessel or plant;
19. "plant" means a system of piping that is used to contain a gas, vapour or liquid under pressure, and includes any boiler or pressure vessel connected thereto;
20. "pressure" means pressure in pounds per square inch measured above prevailing atmospheric pressure;
21. "pressure vessel" means an unfired vessel that may be used for containing, storing, distributing, transferring, distilling, processing or otherwise handling any gas, vapour or liquid under pressure, and includes any pipe, fitting and other equipment attached thereto or used in

connection therewith, except that, where the expression is used in respect of the approval and registration of its design, "pressure vessel" means an unfired vessel that may be used for containing, storing, distributing, transferring, distilling, processing or otherwise handling any gas, vapour or liquid under pressure;

22. "regulations" means the regulations made under this Act;
23. "seal" means to take any measures satisfactory to the chief inspector that will effectively prevent the operation or use of a boiler, pressure vessel or plant;
24. "used boiler, pressure vessel or plant" means a boiler, pressure vessel or plant that has been sold or exchanged and that has been moved from its previous site of installation for use elsewhere;
25. "welding" means welding in the fabrication or repair of a boiler, pressure vessel or plant;
26. "welding operator" means a person engaged in welding, either on his own account or in the employ of another person, on the fabrication or repair of boilers, pressure vessels or plants or parts thereof. 1962-63, c. 8, s. 1.

**2.—(1)** This Act does not apply to,

Exemptions  
from Act

- (a) a boiler used in connection with a hot liquid heating system that has no valves or other obstructions to free circulation between the boiler and an expansion tank that is vented freely to the atmosphere;
- (b) a low pressure boiler having a heating surface of 30 square feet or less;
- (c) a boiler, pressure vessel or plant used exclusively for agricultural purposes;
- (d) a pressure vessel having a capacity of  $1\frac{1}{2}$  cubic feet or less;
- (e) a pressure vessel for permanent use at a pressure of 15 pounds or less;
- (f) a pressure vessel having an internal diameter of 6 inches or less;
- (g) a pressure vessel having an internal diameter of 24 inches or less used for the storage of hot water for domestic use;
- (h) a pressure vessel used exclusively for hydraulic purposes at atmospheric temperature;

- (i) a pressure vessel having an internal diameter of 24 inches or less connected in a water-pumping system containing air that is compressed to serve as a cushion;
- (j) a refrigeration plant having a capacity of three tons or less of refrigeration in twenty-four hours.

Additional exemptions

(2) The Lieutenant Governor in Council may exempt any class of boiler, pressure vessel or plant from this Act or the regulations or any provision thereof. 1962-63, c. 8, s. 2.

Inspectors, appointment

**3.**—(1) The Lieutenant Governor in Council may appoint inspectors to inspect boilers, pressure vessels and plants under this Act, and may designate one of them as the chief inspector.

Inspectors not to have interest in sale, etc., of boilers, etc.

(2) No person shall be appointed or act as an inspector who has any direct or indirect financial interest in boilers, pressure vessels or plants. 1962-63, c. 8, s. 3.

Certificate of competency

**4.**—(1) No person shall carry out an inspection of a boiler, pressure vessel or plant for the purposes of this Act who does not hold a certificate of competency.

Examinations

(2) Subject to the regulations, every applicant for a certificate of competency shall pass such examinations and tests as the Minister may require.

Suspension and cancellation

(3) The Minister may suspend, cancel or refuse to renew any certificate of competency for such reasons as are prescribed by the regulations. 1962-63, c. 8, s. 4.

Right to enter buildings and premises

**5.** An inspector in the course of his duties may enter any building or premises where he has reason to believe that a boiler, pressure vessel or plant is being installed, operated or used. 1962-63, c. 8, s. 5.

Obstructing officer, false information, etc.

**6.**—(1) No person shall hinder or obstruct an inspector in the performance of his duties under this Act or neglect or refuse to furnish information to an inspector in the performance of his duties or furnish him with false or misleading information.

Entry, inspection, etc.

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination or inquiry by an inspector in the exercise of his powers and the carrying out of his duties under this Act. 1962-63, c. 8, s. 6.

Power to require attendance and examine under oath

**7.** The chief inspector may by notice in writing require the attendance before him of any person at the time and place named in the notice and examine such person under oath regarding any matter pertaining to a boiler, pressure vessel or plant or in respect of an accident arising out of its operation or use. 1962-63, c. 8, s. 7.



**8.** On every annual or periodic inspection of a boiler, pressure vessel or plant, the inspector,

Powers and  
duties of  
inspectors on  
inspection

- (a) shall satisfy himself that the boiler, pressure vessel or plant is being operated or used and maintained in accordance with this Act and the regulations and that the safety valves have seals and are properly set; and
- (b) shall review the maximum allowable pressure of the boiler, pressure vessel or plant and make any reduction in it for safe operation or use having regard to its design, fabrication, age, condition and use. 1962-63, c. 8, s. 8.

**9.** An inspector may require the owner or other person responsible for or in charge of a boiler, pressure vessel or plant,

Power to  
require  
owner, etc.,  
to do things  
necessary  
for proper  
inspection

- (a) to prepare it for inspection or test in such manner as the inspector requires and to supply water for and to assist in making any test;
- (b) to cut or drill holes in it or to use any other method to enable the inspector to determine its condition and the thickness of the metal;
- (c) to put it under pressure or otherwise put it into operation so that the inspector may test the safety valves or any part of the installation under operating conditions;
- (d) to stop the application of heat to a boiler or to reduce the pressure upon a boiler, pressure vessel or plant to a designated pressure if the inspector has reason to believe that it is in an unsafe condition; and
- (e) to do any other thing the inspector considers necessary to ensure a proper inspection. 1962-63, c. 8, s. 9.

**10.** Where during an inspection, repair or the maintenance of a boiler, pressure vessel or plant there is any possibility of any gas, vapour or liquid causing injury to the person inspecting, repairing or maintaining it, the owner or other person responsible for or in charge thereof shall,

Safety  
measures  
during  
inspection,  
repair, etc.

- (a) have a competent person stationed so as to prevent any gas, vapour or liquid from entering the boiler, pressure vessel or plant or any part thereof; and
- (b) take such other measures as will ensure the safety of the person inspecting, repairing or maintaining the boiler, pressure vessel or plant. 1962-63, c. 8, s. 10.

**11.—(1)** An inspector may give directions orally or in writing to the owner or other person responsible for or in immediate charge of a boiler, pressure vessel or plant on any matter pertaining to safety with regard to its installation, operation, care, maintenance or repair and require that his directions be carried out within such time as he specifies.

Directions  
by inspector  
re instal-  
lation,  
operation,  
etc.

Refusal of owner, etc., to obey directions of inspector

(2) If the owner or other person responsible for or in immediate charge of a boiler, pressure vessel or plant fails to comply with any direction given by an inspector, the inspector shall order that the boiler, pressure vessel or plant be shut down or sealed and he shall forthwith report the circumstances to the chief inspector who may cancel the certificate of inspection or the certificate of approval. 1962-63, c. 8, s. 11.

Where boiler, etc., unsafe

**12.** Where in the opinion of an inspector a boiler, pressure vessel or plant is in an unsafe operating condition or is being operated in a dangerous manner, the inspector shall seal the boiler, pressure vessel or plant and take such steps as are necessary to remove the danger, and the chief inspector may cancel the certificate of inspection or the certificate of approval. 1962-63, c. 8, s. 12.

Prohibition re operation of sealed boiler, etc.

**13.** No person shall operate or use a boiler, pressure vessel or plant that has been shut down or sealed under section 11 or 12, or cause or permit it to be operated or used, or destroy, remove or tamper with the seal of an inspector until permission has been obtained from an inspector. 1962-63, c. 8, s. 13.

Design of boilers, etc.

**14.—(1)** Where a boiler, pressure vessel, fitting or pipe is to be fabricated for use in Ontario, the designer shall submit its design and specifications to the chief inspector for approval and registration by him before commencing its fabrication.

Where design not available

(2) Where an unused boiler or pressure vessel has been fabricated and its design and specifications have not been approved and registered, the chief inspector may cause it to be inspected, and, if he is satisfied that it may be operated or used safely, may issue a certificate of inspection for it as a used boiler or pressure vessel.

Design of plant

(3) Where a plant is to be installed, its design and specifications shall be submitted to the chief inspector for approval and registration before its installation is commenced. 1962-63, c. 8, s. 14.

Inspection during fabrication, etc.

**15.—(1)** The chief inspector may require the inspection,  
(a) of a boiler or pressure vessel at any stage of its fabrication; or  
(b) of a boiler, pressure vessel or plant at any stage of its installation.

Issue of certificate of inspection

(2) Where a boiler or pressure vessel has been inspected during fabrication or a plant has been inspected during installation, the inspector shall report thereon to the chief inspector who, if satisfied that it may be operated or used safely, may issue a certificate of inspection for it. 1962-63, c. 8, s. 15.

**16.** Where the chief inspector has not required the inspection of a boiler or pressure vessel during its fabrication or of a plant during its installation, he may, if he is satisfied that it may be operated or used safely, issue a certificate of approval therefor. 1962-63, c. 8, s. 16.

Certificate  
of approval

**17.** Notwithstanding the approval and registration of its design, if a boiler, pressure vessel or plant is found to be defective after its fabrication or installation, as the case may be, the chief inspector may permit it to be operated or used within such limits of safety as he considers proper, and shall require the fabricator or installer to revise its design and specifications in order to correct its defects within such period as he may allow, and, failing such revision or if the defects cannot in his opinion be remedied, he shall cancel the approval and registration of the design, and no additional boiler, pressure vessel or plant shall be fabricated or installed therefrom. 1962-63, c. 8, s. 17.

Boiler, etc.,  
defective  
after  
fabrication

**18.** Where a boiler, pressure vessel or plant has not been fabricated or installed, as the case may be, in conformity with its approved design but nevertheless may be used safely at a lower pressure than its design pressure, the person making the inspection shall fix its maximum allowable pressure having regard to its design, condition, installation and the purpose for which it is to be operated or used. 1962-63, c. 8, s. 18.

Boiler, etc.,  
not  
fabricated in  
conformity  
with  
approved  
design

**19.**—(1) No person shall operate or use, or permit to be operated or used, any boiler, pressure vessel or plant at a working pressure higher than its design pressure.

Prohibition  
re operation  
of boilers,  
etc., at  
unsafe  
pressures

(2) No person shall operate or use, or permit to be operated or used, a boiler, pressure vessel or plant at a pressure higher than its maximum allowable pressure as shown in the certificate of approval or the subsisting certificate of inspection. 1962-63, c. 8, s. 19.

Idem

**20.**—(1) Subject to subsection 2, every boiler, pressure vessel or plant shall have at least one safety valve of adequate capacity set to relieve at or below its maximum allowable pressure.

Safety  
valves

(2) Where more than one boiler or pressure vessel are connected in a plant for use at a common operating pressure, they shall be protected by one or more safety valves of adequate capacity set to relieve at or below the common maximum allowable pressure that shall not exceed the maximum allowable pressure of the weakest boiler or pressure vessel in the plant. 1962-63, c. 8, s. 20.

Idem

**21.** While a boiler, pressure vessel or plant is in operation or use, no person shall, without the permission of an inspector, alter, interfere with or render inoperative any fitting that is attached for safety purposes to the boiler, pressure vessel or plant. 1962-63, c. 8, s. 21.

Tampering  
with fittings



Annual or  
periodic  
inspection

**22.** Subject to subsection 2 of section 28, the owner of every boiler or pressure vessel in operation or use shall have it inspected at least once in every twelve months, or at such periodic intervals as are prescribed in the regulations, by an inspector or, on the instructions of the chief inspector, by a person having a subsisting certificate of competency. 1962-63, c. 8, s. 22.

Issue of  
certificate  
of inspection

**23.**—(1) Following any inspection, the inspector shall make a report to the chief inspector on the condition and operation or use of the boiler, pressure vessel or plant, and, if the inspector is satisfied that it may continue to be operated or used safely, the chief inspector may issue a certificate of inspection.

Fee and  
expenses

(2) The fee for a certificate of inspection and the expenses of the inspector shall be paid to the inspector at the time of inspection, unless the chief inspector has notified the inspector that the fee and expenses are being remitted direct to the chief inspector.

Idem

(3) The chief inspector shall not issue a certificate of approval or a certificate of inspection for a boiler, pressure vessel or plant until the provisions of this Act applicable thereto have been complied with and the prescribed fees and expenses have been paid. 1962-63, c. 8, s. 23.

Certificate  
authorizes  
operation

**24.**—(1) A certificate of inspection or a certificate of approval is *prima facie* evidence of the inspection of the boiler, pressure vessel or plant, and the certificate, subject to this Act, authorizes the operation or use of the boiler, pressure vessel or plant in accordance with the terms of the certificate.

Expiration  
of  
certificate

(2) Every certificate of inspection or certificate of approval remains in force for twelve months from the date of inspection unless it is sooner cancelled or unless a shorter or longer period is specified therein.

Maximum  
pressure  
to be  
specified in  
certificate

(3) The maximum allowable pressure at which a boiler, pressure vessel or plant may be operated or used and the safety valve set to relieve shall be specified in the certificate of inspection or certificate of approval.

Certificate  
to be posted

(4) Every certificate of inspection or certificate of approval shall be kept in good condition by the owner of the boiler, pressure vessel or plant for which it was issued, and he shall post it in a conspicuous place near such boiler, pressure vessel or plant or, if that is impracticable, at such place as an inspector may direct. 1962-63, c. 8, s. 24.

Prohibition  
re operation  
without  
certificate  
of inspection

**25.** No person shall operate or use or permit to be operated or used a boiler, pressure vessel or plant unless a certificate of inspection or a certificate of approval for it is in force. 1962-63, c. 8, s. 25.

**26.**—(1) Notwithstanding that a certificate of inspection or a certificate of approval is in force, the chief inspector may order a further inspection of a boiler, pressure vessel or plant at any time, or an inspector may make a further inspection at any time, and the owner shall pay the fee and expenses prescribed therefor.

Further  
inspection  
at any time

(2) Where an additional inspection is made under subsection 1, the inspector shall report thereon to the chief inspector who, if satisfied that the boiler, pressure vessel or plant may be operated or used safely, may issue a certificate of inspection for it. 1962-63, c. 8, s. 26.

Issue of  
new  
certificate

**27.** The owner of a boiler or pressure vessel that is subject to periodic inspection shall, in January of each year, send a statement in the prescribed form to the chief inspector that in his opinion the boiler or pressure vessel is safe to operate or use. 1962-63, c. 8, s. 27.

Annual  
statement  
as to safety

**28.**—(1) Where a boiler or pressure vessel has been insured, every annual or periodic inspection shall be carried out by or through the insurer, and the insurer, if satisfied that the boiler or pressure vessel may be operated or used safely, shall issue a certificate of inspection therefor.

Insured  
boilers,  
etc.

(2) Where a boiler or pressure vessel is insured, it is exempt from annual or periodic inspection by inspectors appointed under this Act so long as the insurance is in force, unless the chief inspector requires the boiler or pressure vessel to be inspected by an inspector, in which case the fees and expenses referred to in section 23 shall be paid by the owner.

Exemption  
from  
inspection  
by  
inspector

(3) Every insurer shall file with the chief inspector, within twenty-one days after an inspection has been made, a copy of the report of the inspection over the signature of the person making the inspection.

Inspection  
report of  
insured

(4) Every insurer shall forthwith notify the chief inspector in writing of the cancellation or rejection of insurance on a boiler or pressure vessel, together with the reasons therefor.

Cancellation  
or rejection  
of insurance

(5) Where an insurer has cancelled insurance on a boiler or pressure vessel because he considers it unsafe for operation or use, he shall cancel its certificate of inspection, take possession of the certificate and forthwith notify the chief inspector in person or by telegram or telephone of the circumstances of the cancellation. 1962-63, c. 8, s. 28.

Cancellation  
of  
certificate  
of inspection  
issued by  
insurer

**29.**—(1) The Minister may permit the chief inspector to employ the services of an insurer or of any person qualified to engage in the business of inspection of boilers and pressure vessels in Ontario to make any inspection required under this Act and to report thereon within fourteen days after the completion of the inspection.

Employment  
of insurer,  
etc.,  
to make  
inspection



Inspection  
of boilers,  
etc.,  
fabricated  
in other  
provinces

(2) Where a boiler or pressure vessel is to be fabricated outside Ontario in any province of Canada for use in Ontario, the chief inspector may arrange with the person in charge of the inspection of boilers and pressure vessels for the province in which it is to be fabricated to carry out inspections during its fabrication and may accept the inspection reports submitted to him by such person for the purposes of this Act.

Inspection  
of boilers,  
etc.,  
fabricated  
in U.S.A.

(3) Where a boiler or pressure vessel is to be fabricated in the United States of America for use in Ontario, the chief inspector may arrange for the inspection of it during fabrication by an inspector holding a commission issued by the National Board of Boiler and Pressure Vessel Inspectors and may accept the inspection reports of such inspector for the purposes of this Act.

Inspection  
of boilers,  
etc.,  
fabricated  
elsewhere

(4) Where a boiler or pressure vessel is to be fabricated outside Canada and the United States of America for use in Ontario, the chief inspector may arrange for the inspection of it during fabrication through any agency engaged in boiler or pressure vessel inspection and may accept the inspection reports of the agency for the purposes of this Act.

Certificate  
of inspection

(5) Where a boiler or pressure vessel is inspected under subsection 1, 2, 3 or 4, a certificate of inspection therefor may be issued by the chief inspector. 1962-63, c. 8, s. 29.

Used  
boilers, etc.,

**30.** Every used boiler, pressure vessel or plant shall be inspected and tested by an inspector before it is put into operation or use, and he shall report thereon to the chief inspector, and, if the chief inspector is satisfied that it may be operated or used safely, he may issue a certificate of inspection. 1962-63, c. 8, s. 30.

Boilers, etc.,  
previously  
used  
outside  
Ontario

**31.—**(1) No person shall install or permit to be installed a boiler, pressure vessel or plant previously used outside Ontario unless the consent of the chief inspector has been obtained for such installation.

Idem,  
operation  
or use

(2) No person shall operate or use, or permit to be operated or used, a boiler, pressure vessel or plant previously used outside Ontario unless the chief inspector has issued a certificate of inspection therefor. 1962-63, c. 8, s. 31.

Repairs to  
boilers, etc.,  
found  
unsafe

**32.** Where a boiler, pressure vessel or plant is found to be in an unsafe condition, no person shall make any major repairs thereto until he has notified an inspector of the nature and extent of such repairs and an inspector has approved thereof, and the boiler, pressure vessel or plant shall not be put into operation or use until a further inspection by an inspector has been made and the chief inspector has issued a new certificate of inspection therefor. 1962-63, c. 8, s. 32.

**33.** When a boiler, pressure vessel or plant is being inspected, the owner or other person responsible for it or in immediate charge of it shall point out to the inspector any defect of which he has knowledge or that he believes to exist in it, and, if at any other time he learns of any defect that might render it unsafe to operate or use, he shall forthwith notify the chief inspector in person or by telegram or telephone of the circumstances. 1962-63, c. 8, s. 33.

Defects in  
boilers, etc.,  
to be  
pointed  
out to  
inspector

**34.**—(1) Where an inspector has inspected a boiler, pressure vessel or plant and has satisfied himself that it can no longer be operated or used safely, he shall condemn it and notify the chief inspector that he has condemned it and shall seal it with a seal or label indicating that it is condemned and shall take possession of its certificate of inspection.

Condemned  
boilers,  
etc.

(2) No person shall operate or use, or permit to be operated or used, a boiler, pressure vessel or plant that has been condemned unless he has had it repaired as required by the chief inspector and a further inspection has been made by an inspector and the chief inspector has issued a new certificate of inspection therefor.

Prohibition  
re operation  
of  
condemned  
boilers, etc.,

(3) No boiler, pressure vessel or plant that has been condemned shall be moved to another location for operation or use without the consent of the chief inspector. 1962-63, c. 8, s. 34.

Prohibition  
as to  
removal  
for use

**35.** The owner of a boiler, pressure vessel or plant, upon permanently removing it from operation or use, shall forthwith notify, in the prescribed form, the chief inspector of such removal. 1962-63, c. 8, s. 35.

Notice of  
removal  
from  
operation

**36.**—(1) The procedures to be followed in welding shall be approved by the chief inspector.

Approval of  
procedures  
in welding

(2) Every welding operator shall pass such qualification tests as the chief inspector may require.

Qualification  
tests

(3) No welding operator shall weld except under an approved procedure.

Welding to  
be done  
under  
approved  
procedure

(4) The chief inspector shall issue an identification card to every welding operator who passes a qualification test.

Identification  
card

(5) Every identification card shall indicate the employer for whom the welding operator is qualified to weld or that he is self-employed or that he desires to be employed and the class or position of welding that he is qualified to do.

Idem

(6) A welding operator may be required at any time to pass such further qualification tests as the chief inspector may require, at which time his identification card shall be cancelled and, on his passing such further tests, a new identification card shall be issued to him.

Further  
tests

Fees

(7) Such fees as are prescribed by the regulations for the test of a welding operator shall be paid at the time the test is given by the employer of the welding operator or, if he is self-employed or desires to be employed, by himself.

Identifica-  
tion card  
to be  
carried

(8) Every welding operator shall carry his identification card upon his person when welding and shall produce it when requested by an inspector.

Welding  
for new  
employer

(9) When a welding operator changes his employer or is first employed by an employer, he shall not commence to weld for his new employer or his employer, as the case may be, until he has passed a further qualification test and has been issued a new identification card.

Prohibition  
of unquali-  
fied person  
to weld

(10) No welding operator shall do welding,

- (a) unless he is the holder of a subsisting identification card;
- (b) in the employ of any person other than the employer named on his identification card; or
- (c) of a class or position of welding for which he is not qualified.

Employer  
not to  
permit  
welding by  
unqualified  
person

(11) No employer shall permit a welding operator,

- (a) to weld unless he is the employer named in the welding operator's identification card; or
- (b) to do a class of welding or to weld in a position for which the welding operator is not qualified. 1962-63, c. 8, s. 36.

Notification  
of accidents

**37.**—(1) Where an explosion or rupture of a boiler, pressure vessel or plant occurs, or where an accident arises out of its operation or use that causes injury or death to a person, or property damage, the owner or person in charge shall forthwith notify the chief inspector in person or by telegram or telephone giving him full details of the accident and shall within forty-eight hours after the explosion or rupture occurs send him a written report of the circumstances of the occurrence.

Investigation  
of accident

(2) The chief inspector or any inspector under his instruction shall investigate any explosion, rupture or accident so reported, or of which he becomes aware, to determine its cause. 1962-63, c. 8, s. 37.

After  
explosion or  
rupture,  
parts not  
to be  
removed,  
etc.

**38.** Where an explosion or rupture of a boiler, pressure vessel or plant occurs, no person shall, except for the purpose of saving life or relieving human suffering, interfere with, disturb, destroy, carry away or alter any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do is given by an inspector. 1962-63, c. 8, s. 38.

**39.**—(1) Any person who is dissatisfied with an inspection or action taken by an inspector may within thirty days thereof appeal to the Minister, who may thereupon cause another inspection to be made by one or more inspectors who shall report to him, and the decision of the Minister is final.

Appeal from  
action of  
inspector

(2) Any expenses occasioned by the appeal and second inspection as determined by the Minister shall be paid by the appellant. 1962-63, c. 8, s. 39.

Expenses  
of appeal

**40.** Subject to this Act and the regulations, the publications of the Canadian Standards Association, of the American Standards Association and of the American Society of Mechanical Engineers, as amended from time to time, shall be deemed to contain the rules that shall be referred to by the chief inspector and the inspectors in carrying out their duties under this Act in reference to the approval of designs, the fabrication, installation, inspection, testing, operation, and use of boilers, pressure vessels and plants. 1962-63, c. 8, s. 40.

Publications  
to be  
referred to  
by  
inspectors

**41.** Every person who contravenes any of the provisions of this Act or the regulations, or any direction or order given to him by an inspector, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to a term of imprisonment of not more than twelve months, or to both fine and imprisonment: 1962-63, c. 8, s. 41.

Offences

**42.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the qualifications of persons who may be issued certificates of competency;
- (b) providing for the issue and renewal of certificates of competency and for the expiration, suspension and cancellation thereof;
- (c) providing for periodic inspections of any class of boilers or pressure vessels;
- (d) requiring the payment of fees for any official function under this Act and prescribing the amounts thereof;
- (e) providing for the payment by the fabricator or owner of a boiler or pressure vessel or the installer or owner of a plant of any or all of the expenses incurred by an inspector in making an inspection of it;
- (f) governing the design, fabrication, installation, operation, use, repair, maintenance and inspection of boilers, pressure vessels and plants or any class thereof;
- (g) prescribing the manner in which the design of a boiler, pressure vessel, plant, fitting or pipe shall be registered and numbered, and the manner in which it shall be marked or identified;



- (h) prescribing the drawings and specifications that shall accompany an application for approval and registration of the design of a boiler, pressure vessel, plant, fitting, or pipe and the information to be included therein;
  - (i) prescribing the terms and conditions upon which an approved and registered design may be revised;
  - (j) prescribing the manner by which the capacity of a boiler, pressure vessel or plant may be determined;
  - (k) requiring the fabricator or his agent or officer in charge of fabrication to make a report in respect of the fabrication of a boiler or pressure vessel, and prescribing the information that shall be contained in the report and the manner in which it shall be verified;
  - (l) requiring the installer or his agent or officer in charge of the installation of a plant to make a report in respect of the installation of the plant, and prescribing the information that shall be contained in the report and the manner in which it shall be verified;
  - (m) prescribing the plans, drawings and information to be given in respect of the repair of a boiler, pressure vessel or plant;
  - (n) prescribing the conditions under which a boiler, pressure vessel or plant may be mounted on a vehicle;
  - (o) requiring every inspector and insurer to stamp or otherwise permanently identify, by a departmental number designated by the chief inspector, every boiler, pressure vessel or plant inspected by him that does not then have such a departmental number, and establishing such a system of identification and providing for and fixing the amount of the remuneration that shall be paid to insurers for so doing;
  - (p) providing for the assigning of identifying symbols to welding operators, and requiring and providing for the imprinting of the symbol by the welding operator on welds made by him;
  - (q) classifying refrigerants and governing the conditions under which they may be used;
  - (r) prescribing forms and providing for their use;
  - (s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 8, s. 42.
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## CHAPTER 48

### The Boundaries Act

**1.** In this Act,

Interpre-  
tation

- (a) “block outline survey” means a survey in which outline monuments are placed at suitable points at or near some or all highway intersections or angles in highway boundaries, or, in cases where no highway exists, then at other suitable points;
- (b) “complete survey” means a survey that defines on the ground every angle of every parcel in the area surveyed;
- (c) “director” means the director of titles appointed under *The Land Titles Act*; R.S.O. 1970,  
c. 234
- (d) “Director of Land Registration” means the Director of Land Registration appointed under *The Registry Act*; R.S.O. 1970,  
c. 409
- (e) “examiner” means the examiner of surveys appointed under *The Land Titles Act*;
- (f) “monument” means a post, stake, peg, stone, mound, pit or other object or device used to define the position of a boundary corner or line;
- (g) “outline monument” means a monument that defines a position in a block outline survey made under this Act or *The Land Titles Act*, or a monument that defines a block corner in a subdivision survey, or a monument that defines a highway boundary;
- (h) “parcel” means a lot, block easement, right of way, or other area into which land is divided;
- (i) “proper master of titles” means the master of titles in whose office the land described in or affected by an application under this Act is or may be registered;
- (j) “registrar” means the registrar of deeds for the registry division in which the land in respect of which an application is made is situate;
- (k) “surveyor” means an Ontario land surveyor authorized to practise under *The Surveyors Act*. R.S.O. 1970,  
c. 452  
R.S.O. 1960, c. 38, s. 1; 1961-62, c. 9, s. 1; 1965, c. 9, s. 1; 1970, c. 36, s. 1, amended.

**2.** The Minister of Justice and Attorney General is responsible for the administration of this Act. Administra-  
tion 1970, c. 36, s. 2.

Powers of  
director  
R.S.O. 1970,  
c. 379

**3.** The director has and may exercise in connection with his functions under this Act all of the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 38, s. 4.

Application  
for con-  
firmation of  
survey

**4.**—(1) Where,

- (a) an error appears in or a doubt exists as to the accuracy of a survey or plan of a parcel or as to the true location of any of its boundaries;
- (b) a difference exists or is thought to exist between the occupational boundaries of a parcel and the boundaries as shown on a registered plan of subdivision or other plan or in the description in the instrument under which the parcel is held or in the title register; or
- (c) the boundaries of a parcel are not shown on a registered plan of subdivision,

an application to the director to have the boundaries confirmed or surveyed and confirmed under this Act may be made by,

- (d) the owner of the parcel;
- (e) the council of the municipality in which the parcel is situate;
- (f) the Minister of Highways;
- (g) the Director of Land Registration;
- (h) the Surveyor General under *The Public Lands Act*;
- (i) the Surveyor General under the *Canada Lands Surveys Act*; or
- (j) with the consent of the owner of the parcel, an Ontario land surveyor. 1961-62, c. 9, s. 3, *part*; 1965, c. 9, s. 3; 1970, c. 36, s. 3.

R.S.O. 1970,  
c. 380  
R.S.C. 1952,  
c. 26

Payment  
of costs

(2) An applicant under this section is liable *prima facie* to pay all costs, charges and expenses incurred by or in consequence of the application. 1961-62, c. 9, s. 3, *part*.

Engagement  
of surveyor

**5.** Upon receipt of an application under section 4, the director may engage a surveyor to make a survey and plan of the parcel or to do such additional survey work as the director may require. 1961-62, c. 9, s. 3, *part*.

Where  
director  
may  
initiate  
proceedings

**6.** The director of his own accord, upon finding any of the conditions prescribed in section 4 to exist in respect of any parcel, may initiate proceedings under this Act and may engage a surveyor to make a survey and plan of the parcel or to do such additional survey work as the director may require. 1961-62, c. 9, s. 3, *part*; 1965, c. 9, s. 4.

**7.**—(1) The director may require any survey under this Act to be made in whole or in part as a block outline survey or as a complete survey. Method of survey

(2) The director may give such instructions to the surveyor as he considers necessary and the surveyor shall comply therewith. Instructions

(3) When a surveyor has completed the work to be done under this Act, he shall, notwithstanding *The Surveys Act*, deposit the plan and original field notes of the survey with the director. 1961-62, c. 9, s. 3, *part*. Deposit of plan and field notes  
R.S.O. 1970,  
c. 453

**8.** Where an application has been made by or on behalf of a municipal corporation under section 34 of *The Land Titles Act* to have an area of land in the municipality registered under that Act and, Costs of survey deemed costs within  
R.S.O. 1970,  
c. 234

- (a) an application is made under clause *e* of subsection 1 of section 4 of this Act in respect of the same area of land; or
- (b) a surveyor has been engaged by the director under section 6 of this Act to make a survey and plan of the same area of land and the municipal council has been advised of and has not objected to the engagement,

the costs of and incidental to the preparation of the survey and plan shall be deemed to be costs of and incidental to the application under section 34 of *The Land Titles Act* for the purpose of subsection 3 of that section. 1961-62, c. 9, s. 3, *part, amended*.

**9.**—(1) When a plan and field notes have been deposited under subsection 3 of section 7, the director shall cause a notice thereof, Notice of time and place of hearing objections

- (a) to be published in *The Ontario Gazette*; and
- (b) to be given in such manner and to such persons as the director considers proper,

setting forth the purpose of the survey and the day, hour and place that he has fixed for hearing the objections of any person thereto. R.S.O. 1960, c. 38, s. 10 (1); 1961-62, c. 9, s. 4, *amended*.

(2) The director shall furnish a copy of the plan to any person who applies therefor. R.S.O. 1960, c. 38, s. 10 (2). Copy of plan

**10.** Any person desiring to object to the survey or plan shall deliver to the director by registered mail or by personal service not less than three days before the day fixed for the hearing a written statement setting forth the nature and grounds of his objections. R.S.O. 1960, c. 38, s. 11. Written statement of objections

Hearing  
and  
confirmation

**11.**—(1) Upon the hearing, the director may dispose of any objections in such manner as he considers just and equitable under all the circumstances and may confirm the survey and plan, or, if he thinks proper to do so, may order that the survey and plan be amended in such manner as he may direct in which case he may confirm the survey and plan as so amended. R.S.O. 1960, c. 38, s. 12 (1), *amended*.

Costs

(2) The director may order costs, either as between party and party or as between solicitor and client, to be paid by or to any person who is a party to a proceeding under this Act, and may give directions as to the fund out of which such costs shall be paid, regard being had to subsection 2 of section 4.

Appeal

(3) Any person aggrieved by an order of the director made under subsection 2 may appeal to a judge of the Supreme Court who may annul or, with or without modification, confirm the order.

Enforcement  
of order

(4) If a person disobeys an order of the director made under subsection 2, the director may certify the disobedience to the Supreme Court, and thereupon, subject to the right of appeal, the order may be enforced in the like manner and by the like proceedings as if it were an order of the court.

Costs of  
trustee,  
etc.

(5) The amount of all costs, charges and expenses of and incidental to an application properly incurred by a trustee, mortgagee, or other person having a power of selling land shall be ascertained and declared by the director and shall be deemed to be costs, charges, and expenses properly incurred by that person in the execution of the trust or in pursuance of the power, and he may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he is not liable to account in respect thereof.

Notice of  
confirmation

(6) Notice of the confirmation shall be published in *The Ontario Gazette* and given in such other manner and to such persons as the director considers proper. 1961-62, c. 9, s. 5, *part*.

Appeal from  
confirmation

**12.**—(1) Any person objecting to the confirmation may appeal to a judge of the Supreme Court who may decide the matter on the evidence before him or direct the trial of an issue and may dismiss the appeal or order the director to amend the survey and plan in such manner as the judge considers proper.

Notice of  
appeal

(2) Notice of an appeal under this section shall be served upon the director within twenty days after the date of the publication in *The Ontario Gazette* of the notice of confirmation. R.S.O. 1960, c. 38, s. 13.



**13.** When the period of twenty days mentioned in section 12 has elapsed and no appeal has been taken or, if taken, has been disposed of, the director may certify his confirmation of the plan of survey and the certificate is conclusive that every application, notice, publication, proceeding and act that ought to have been made, given, or done has been made, given or done in accordance with this Act. R.S.O. 1960, c. 38, s. 14.

Certificate  
of  
confirmation

**14.—**(1) The boundaries fixed by the survey and plan that have been certified by the director and defined by the monuments shown on the plan under this Act shall, notwithstanding any other Act, be deemed to be the true boundaries of the parcel.

Effect of  
certificate

(2) Nothing in this Act affects the establishment or re-establishment of lines under *The Surveys Act*, other than the boundaries fixed under this Act. R.S.O. 1960, c. 38, s. 15.

Saving  
R.S.O. 1970,  
c. 453

**15.** Where the owners of adjoining parcels consent to the establishment of their mutual boundaries by a survey and plan made under this Act, the director may confirm and certify the survey and plan of those boundaries and sections 9, 10, 11 and 12 do not apply. R.S.O. 1960, c. 38, s. 16.

Boundaries  
established  
by consent

**16.—**(1) When a plan has been confirmed and certified under this Act, the director shall cause the plan or a copy thereof to be registered in the proper land titles or registry office. 1961-62, c. 9, s. 6, *part*.

Registration  
of plan

(2) Upon receipt of the plan or copy for registration, the proper master of titles or registrar shall register the plan and shall make an entry in red ink in the title register or abstract index for each parcel that adjoins a boundary that has been confirmed, setting out the registration number of the plan, the date of registration, the number assigned to the plan by the director, the entry “Plan under *The Boundaries Act*”, and a brief statement of the effect of the plan. 1961-62, c. 9, s. 6, *part*; 1965, c. 9, s. 5 (1).

Idem

(3) When a plan or copy thereof has been registered in accordance with this section, the plan supersedes all corresponding portions of all former registered plans and descriptions. 1961-62, c. 9, s. 6, *part*.

Effect of  
registration

(4) Where a plan confirmed and certified under this Act has been registered, an instrument that affects any parcel that adjoins a confirmed boundary shall not be registered unless the description of the land in the instrument conforms and refers to the plan or unless, where the instrument is to be registered under *The Land Titles Act*, the director or, where the instrument is to be registered under *The Registry Act*, the Director of Land Registration, under special circumstances, considers it proper to authorize the registration. 1965, c. 9, s. 5 (2); 1970, c. 36, s. 4.

Subsequent  
instruments  
must  
conform to  
plan

R.S.O. 1970,  
cc. 234, 409



Right to  
registration

R.S.O. 1970,  
cc. 234  
409, 349

**17.** Notwithstanding section 171 of *The Land Titles Act* or subsection 8 of section 78 of *The Registry Act*, a plan certified under this Act may be registered under *The Land Titles Act* or *The Registry Act*, as the case may be, without any approval under *The Planning Act*. R.S.O. 1960, c. 38, s. 18.

Monuments

**18.** When a survey and plan have been certified under this Act, the director may order the removal of any monument that conflicts with any monument placed under this Act. R.S.O. 1960, c. 38, s. 19.

No claim  
against  
assurance  
funds

R.S.O. 1970,  
cc. 59, 234

**19.**—(1) No claim shall be made against the Assurance Fund established under *The Certification of Titles Act* or against the Assurance Fund established under *The Land Titles Act* in consequence of the boundaries of land having been certified under this Act.

Title  
insurance

R.S.O. 1970,  
c. 224

(2) The protection afforded the assurance funds under this section extends to an insurer who has issued a policy of title insurance as defined by paragraph 62 of section 1 of *The Insurance Act*. R.S.O. 1960, c. 38, s. 20.

Regulations

**20.** The Lieutenant Governor in Council may make regulations,

- (a) requiring and providing for a cash or other deposit on applications;
- (b) requiring the payment of fees upon the performance of any function under this Act and prescribing the amounts thereof;
- (c) prescribing the procedures to be followed with respect to matters under this Act by masters of titles and registrars of deeds;
- (d) governing standards and procedures for surveys and plans under this Act;
- (e) prescribing forms and providing for their use;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 38, s. 21; 1965, c. 9, s. 6.

Reduction  
of fees

**21.** Where in the opinion of the director the fees payable on an application under this Act are unduly excessive, having regard to all the circumstances, the director may reduce the fees to such amount as he considers appropriate. 1961-62, c. 9, s. 7.

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## CHAPTER 49

## The Bread Sales Act

**1.** In this Act,Interpre-  
tation

- (a) “bake shop” means a building, premises, work-shop, room or place in which bread is made for sale or sold;
- (b) “inspector” means an inspector appointed by a municipal council under this Act or a member of the Ontario Provincial Police Force. R.S.O. 1960, c. 39, s. 1.

**2.** The council of every city, town and village shall, and the council of every township may, appoint an inspector for the purpose of enforcing this Act. R.S.O. 1960, c. 39, s. 2.

Appoint-  
ment of  
inspector

**3.**—(1) Every person conducting a bake shop shall do so only under a licence to be issued by the municipality, and under regulations and conditions prescribed by by-law of the municipality, and no licence shall be issued until the medical officer of health gives a certificate that all regulations and conditions have been fully complied with.

Bake shops  
to be  
licensed

(2) Any licence issued under this Act may be revoked by the council of the municipality.

Revocation

(3) The fee for the licence shall not exceed \$1. R.S.O. 1960, c. 39, s. 3.

Fee

**4.**—(1) Except as provided in subsection 2, no person shall make bread for sale or sell or offer for sale bread except in loaves weighing 16, 24 or 48 ounces avoirdupois.

Weight  
of bread

(2) Small-bread may be made for sale, offered for sale and sold in any weight not exceeding 12 ounces avoirdupois. R.S.O. 1960, c. 39, s. 4.

Small-bread

**5.** Every person making bread for sale shall keep in a conspicuous and convenient place in the bake shop scales and weights suitable for weighing bread, and shall weigh the bread offered for sale by him at the request of any person desiring to purchase the bread, and the inspector may use such scales at any time for the purpose of weighing bread found by him in the bake shop. R.S.O. 1960, c. 39, s. 5.

Scales and  
weights in  
bake shop

## Offences

**6.** Every person who makes for sale or sells or offers for sale bread in contravention of the preceding sections, or who neglects to comply with section 5, is guilty of an offence. R.S.O. 1960, c. 39, s. 6.

## Offence of using deleterious material

**7.—(1)** Every person who uses an adulterant or deleterious material in the making of bread for sale, or who knowingly sells or offers for sale any bread containing adulterant or deleterious material, is guilty of an offence, and is also liable as part of the costs of conviction to pay any expenses incurred in procuring an analysis of such bread.

*Prima facie* evidence of offence

(2) The keeping in any place where bread is made for sale of any adulterant or deleterious material that may be used in the making of bread is *prima facie* evidence of an offence against subsection 1. R.S.O. 1960, c. 39, s. 7.

## Offence of interfering with inspector

**8.** Every person who refuses the inspector admittance to his bake shop or who interferes with the inspector in the performance of his duties is guilty of an offence. R.S.O. 1960, c. 39, s. 8.

## Inspector's powers

**9.—(1)** An inspector may, at any time prior to the delivery to a purchaser, weigh any bread made or offered for sale, and may take away any bread and cause it to be tested for the purpose of determining if any adulterant or deleterious material has been used in the making thereof.

Destruction of adulterated bread  
Disposal of light-weight bread

(2) If the bread is found to contain any such adulterant or deleterious material, the inspector shall destroy it.

(3) Where the inspector, upon weighing the bread, finds that it is of less than the prescribed weight, he shall seize and remove it and hand it over to some charitable institution. R.S.O. 1960, c. 39, s. 9.

## Duties of inspector

**10.** It is the duty of the inspector to see that this Act is complied with, and he shall make a report quarterly to the council showing the prosecutions taken and the quantity of bread seized or tested under this Act. R.S.O. 1960, c. 39, s. 10.

## When penalty not to be imposed

**11.** No person is liable to the penalties prescribed by this Act for making or offering for sale short-weight bread unless in the case of a manufacturer there are found at least ten short-weight loaves and in the case of a retailer there are found at least five short-weight loaves at one time, but all short-weight loaves are nevertheless liable to seizure as hereinbefore provided. R.S.O. 1960, c. 39, s. 11.

**12.** In any prosecution under this Act, the certificate of the analyst or assistant analyst of the Department of Health in writing stating the result of any test made by him under this Act and purporting to be signed by him is *prima facie* proof of the facts therein set forth and is receivable without proof of the signature or of the official character of the person who appears to have signed it. R.S.O. 1960, c. 39, s. 12.

Certificate  
of analyst  
as evidence

**13.** Every person guilty of an offence under this Act, on summary conviction, is liable to a fine of not less than \$10 and not more than \$100 for the first offence, and not less than \$25 and not more than \$200 for any subsequent offence. R.S.O. 1960, c. 39, s. 13.

Offence

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## CHAPTER 50

### The Bridges Act

**1.** This Act applies to,

Application  
of Act

- (a) every river or stream or part thereof where its bed is vested in Her Majesty in right of Ontario; and
- (b) every place upon a river or stream where Her Majesty in right of Ontario, or any board or commission constituted under any Act of the Legislature, is a riparian owner. R.S.O. 1960, c. 40, s. 1.

**2.**—(1) No bridge or other structure shall be built, placed or constructed over or across any river or stream or part thereof, nor shall any bridge or other structure over or across any river or stream or part thereof be rebuilt, replaced or altered, where the cost of such building, placing, constructing, rebuilding, replacing or altering will exceed \$2,000, except with the approval of the Lieutenant Governor in Council.

Approval of  
Lieutenant  
Governor in  
Council

(2) The Lieutenant Governor in Council may approve of the building, placing, constructing, rebuilding, replacing or altering of any such bridge or other structure upon receiving,

Conditions  
of approval

- (a) a petition praying for such approval;
- (b) proof that the plan of the proposed bridge or alterations and a surveyor's description of the site or proposed site have been deposited with the Minister of Highways and in the proper registry office or land titles office; and
- (c) proof that notice of such application has been published for three successive weeks in *The Ontario Gazette* and in two newspapers having a general circulation in the locality where the site or proposed site of the bridge is located. R.S.O. 1960, c. 40, s. 2.

**3.**—(1) No person shall build, place, construct, operate or maintain any bridge the cost of which is in excess of \$2,000, unless such person is,

Who may  
build  
bridge

- (a) a person domiciled and ordinarily resident in Ontario;
- (b) a corporation incorporated under the laws of Canada;
- (c) a corporation incorporated under the laws of Ontario; or
- (d) a corporation licensed under Part IX of *The Corporations Act*.

R.S.O. 1970,  
c. 89

Where  
bridge  
operated,  
etc., con-  
trary to  
subs. 1

(2) Where a bridge is built, placed, constructed, operated or maintained contrary to subsection 1, such bridge or so much thereof as is in Ontario shall, subject to any direction of the Lieutenant Governor in Council, be deemed to be the property of Her Majesty in right of Ontario. R.S.O. 1960, c. 40, s. 3.

Regulations

4. The Lieutenant Governor in Council may make regulations regarding the building, placing, constructing, rebuilding, replacing, alteration, operation, maintenance and control of bridges and other structures over or across any river, stream or part thereof including the exemption of any commission constituted under any Act of the Legislature or any railway company from any of the provisions of this Act. R.S.O. 1960, c. 40, s. 4.

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## CHAPTER 51

## The Brucellosis Act

**1.** In this Act,Interpre-  
tation

- (a) “brucellosis” means the infectious disease of cattle caused by the organism *brucella abortus*;
- (b) “calf” means a head of cattle under the age of one year;
- (c) “Director” means the Director of the Veterinary Services Branch of the Department of Agriculture and Food;
- (d) “inspector” means an inspector appointed under this Act;
- (e) “Minister” means the Minister of Agriculture and Food;
- (f) “owner” means a person owning or keeping one or more head of cattle, and includes a person in charge of premises where cattle are kept;
- (g) “regulations” means the regulations made under this Act;
- (h) “vaccinate” means vaccinate against brucellosis with vaccine in accordance with the regulations, and “vaccination” has a corresponding meaning;
- (i) “veterinarian” means a veterinarian appointed under this Act. 1965, c. 10, s. 1; 1968, c. 9, s. 1.

**2.** For the purposes of this Act, the Lieutenant Governor in Council may appoint a chief inspector and one or more inspectors. 1965, c. 10, s. 2.

Inspectors

**3.—(1)** For the purposes of this Act, the Minister may appoint any veterinarian registered under *The Veterinarians Act* who makes application for appointment in the form prescribed in the regulations.

Appoint-  
ment of  
veterinarians  
R.S.O. 1970,  
c. 480

(2) Where the Minister appoints a veterinarian, he shall make an agreement with the veterinarian in the form prescribed in the regulations.

Agreements  
with  
veterinarians

(3) With the approval of the Director, a veterinarian may engage one or more persons to assist him in carrying out his duties under this Act, but the veterinarian is responsible for all acts of his assistants in carrying out such duties. 1965, c. 10, s. 3.

Veterinar-  
ians'  
assistants

Prohibition  
as to  
vaccination

**4.** No person, other than a veterinarian or an assistant engaged by him, shall vaccinate a head of cattle. 1965, c. 10, s. 4.

Age limits  
as to  
vaccination

**5.** No person shall vaccinate or cause to be vaccinated a head of cattle, except a calf that is within the age limits for vaccination prescribed in the regulations. 1965, c. 10, s. 5.

Prescribed  
vaccine  
to be used

**6.** No veterinarian shall use or supply to any person for use in any vaccination any vaccine other than a vaccine prescribed in the regulations. 1965, c. 10, s. 6.

Notice of  
calf to be  
vaccinated

**7.—(1)** Every owner of a female calf that is within the age limits for vaccination prescribed in the regulations may notify a veterinarian that he has such a calf for vaccination. 1965, c. 10, s. 7 (1).

Vaccination  
after  
notice

**(2)** Where a veterinarian receives a notice under subsection 1, he may vaccinate the calf on such terms and conditions as may be agreed upon between the veterinarian and the owner. 1968, c. 9, s. 2.

Certificate  
of vaccina-  
tion

**8.** Where a veterinarian vaccinates a calf, he shall complete in triplicate a certificate of vaccination in the form prescribed in the regulations and forthwith shall deliver or send by mail the original copy thereof to the owner and, within ten days after the end of the month in which the calf was vaccinated, shall deliver or send by mail two copies thereof to the Director. 1965, c. 10, s. 8.

Right of  
entry

**9.—(1)** For the purposes of carrying out his duties under this Act, an inspector may at any time between sunrise and sunset enter any premises or building other than a dwelling house. 1965, c. 10, s. 9 (1); 1968, c. 9, s. 3.

Certificate  
of appoint-  
ment

**(2)** The production by an inspector or a veterinarian of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister. 1965, c. 10, s. 9 (2).

Obstruction  
of inspector  
or veteri-  
narian

**10.** No person shall hinder or obstruct an inspector or a veterinarian in the course of his duties or furnish him with false information, or refuse to furnish him with information. 1965, c. 10, s. 10.

Offences

**11.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not more than \$25 and, for a subsequent offence, to a fine of not more than \$50 or to imprisonment for a term of not more than ten days, or to both. 1965, c. 10, s. 11.

**12.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the vaccine and the method to be used in vaccinating a calf;
  - (b) prescribing the age limits for vaccination of a calf;
  - (c) providing for a means of identification of a calf vaccinated under this Act, prescribing the manner in which such means of identification may be used, and governing the removal of such means of identification from a head of cattle;
  - (d) prescribing forms and providing for their use;
  - (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1965, c. 10, s. 12; 1968, c. 9, s. 4.
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## CHAPTER 52

**The Bulk Sales Act****1. In this Act,**Interpre-  
tation

- (a) “buyer” means a person who acquires stock in bulk;
- (b) “court” means the county or district court of the county or district in which the seller’s stock or a substantial part thereof is located or the seller’s business or trade or a substantial part thereof is carried on at the time of the sale in bulk;
- (c) “creditor” means any creditor, including an unsecured trade creditor and a secured trade creditor;
- (d) “judge” means a judge of the court;
- (e) “proceeds of the sale” includes the purchase price and any security therefor or for any part thereof, and any other consideration payable to the seller or passing from the buyer to the seller on a sale in bulk, and the moneys realized by a trustee under a security or by the sale or other disposition of any property coming into his hands as the consideration or part of the consideration for the sale, less the proper and reasonable costs of the seller’s solicitor for completing the sale;
- (f) “sale”, whether used alone or in the expression “sale in bulk”, includes a transfer, conveyance, barter or exchange, but does not include a pledge, charge or mortgage;
- (g) “sale in bulk” means a sale of stock in bulk out of the usual course of business or trade of the seller;
- (h) “secured trade creditor” means a person to whom a seller is indebted, whether or not the debt is due,
  - (i) for stock, money or services furnished for the purpose of enabling the seller to carry on business, or
  - (ii) for rental of premises in or from which the seller carries on business,and who holds security or is entitled to a preference in respect of his claim;
- (i) “seller” means a person who sells stock in bulk;

- (j) "stock" means,
  - (i) goods, wares, merchandise or chattels ordinarily the subject of trade and commerce,
  - (ii) the goods, wares, merchandise or chattels in which a person trades or that he produces or that are the output of a business, or
  - (iii) the fixtures, goods and chattels with which a person carries on a trade or business;
- (k) "stock in bulk" means stock or part thereof that is the subject of a sale in bulk and all other property, real or personal, that together with stock is the subject of a sale in bulk;
- (l) "unsecured trade creditor" means a person to whom a seller is indebted for stock, money or services furnished for the purpose of enabling the seller to carry on a business, whether or not the debt is due, and who holds no security or who is entitled to no preference in respect of his claim. R.S.O. 1960, c. 43, s. 1.

Application  
of Act

R.S.O. 1970,  
c. 269

R.S.C. 1952,  
c. 14

**2.** This Act applies to every sale in bulk except a sale in bulk by an executor, an administrator, a committee of the estate of a mentally incompetent or incapable person, the Public Trustee as committee under *The Mental Health Act* or an order made under that Act, a creditor realizing upon his security, a receiver, an assignee or trustee for the benefit of creditors, a trustee under the *Bankruptcy Act* (Canada), a liquidator or official receiver, or a public official acting under judicial process. R.S.O. 1960, c. 43, s. 2, *amended*.

Judicial  
exemption

**3.—(1)** A seller may apply to a judge for an order exempting a sale in bulk from the application of this Act, and the judge, if he is satisfied, on the affidavit of the seller and any other evidence, that the sale is advantageous to the seller and will not impair his ability to pay his creditors in full, may make the order, and thereafter this Act, except section 7, does not apply to the sale.

Notice,  
terms and  
directions

**(2)** The judge may require notice of the application for the order to be given to the creditors of the seller or such of them as he directs, and he may in the order impose such terms and give such directions with respect to the disposition of the proceeds of the sale or otherwise as he considers appropriate. R.S.O. 1960, c. 43, s. 3.

Statement  
of  
creditors

**4.—(1)** The buyer, before paying or delivering to the seller any part of the proceeds of the sale, other than the part mentioned in section 6, shall demand of and receive from the seller, and the seller shall deliver to the buyer, a statement verified by the affidavit of the seller in Form 1.

(2) The statement shall show the names and addresses of the unsecured trade creditors and the secured trade creditors of the seller and the amount of the indebtedness or liability due, owing, payable, or accruing due, or to become due and payable, by the seller to each of them, and, with respect to the claims of the secured trade creditors, the nature of their security and whether their claims are due or, in the event of sale, become due on the date fixed for the completion of the sale. R.S.O. 1960, c. 43, s. 4.

Contents  
of  
statement

**5.** From and after the delivery of the statement mentioned in section 4, no preference or priority is obtainable by any creditor of the seller in respect of the stock in bulk, or the proceeds of the sale thereof, by attachment, garnishment proceedings, contract or otherwise. R.S.O. 1960, c. 43, s. 5.

No  
preference  
or  
priority

**6.** The buyer may, before he receives the statement mentioned in section 4, pay to the seller on account of the purchase price a sum not exceeding 10 per cent of the purchase price which shall form part of the proceeds of sale and which the seller shall hold in trust,

Part  
payment

- (a) for the buyer until completion of the sale, or, if the sale is not completed and the buyer becomes entitled to repayment of it, until it is repaid to the buyer; or
- (b) where the sale is completed and a trustee has been appointed, for the trustee until the seller complies with clause *b* of section 10. R.S.O. 1960, c. 43, s. 6.

**7.** Any creditor of a seller is entitled to demand of the seller or the buyer, in which case the seller or the buyer, as the case may be, shall forthwith deliver to the creditor, particulars in writing of the sale in bulk. R.S.O. 1960, c. 43, s. 7.

Particulars

**8.—(1)** Where the buyer has received the statement mentioned in section 4, he may pay or deliver the proceeds of the sale to the seller and thereupon acquire the property of the seller in the stock in bulk,

Completion  
of sale

- (a) if the statement mentioned in section 4 discloses that the claims of the unsecured trade creditors of the seller do not exceed a total of \$2,500 and that the claims of the secured trade creditors of the seller do not exceed a total of \$2,500 and the buyer has no notice that the claims of the unsecured trade creditors of the seller exceed a total of \$2,500 and that the claims of the secured trade creditors of the seller exceed a total of \$2,500; or

- (b) if the seller delivers a statement verified by his affidavit showing that the claims of all unsecured trade creditors and all secured trade creditors of the seller of which the buyer has notice have been paid in full; or
- (c) if adequate provision has been made for the immediate payment in full of all claims of the unsecured trade creditors of the seller of which the buyer has notice and of all claims of secured trade creditors of the seller that are or become due and payable upon completion of the sale of which the buyer has notice, so long as their claims are paid in full forthwith after completion of the sale, but where any such creditor has delivered a waiver in Form 2 no provision need be made for the immediate payment of his claim.

Idem

(2) Where the buyer has received the statement mentioned in section 4, he may pay or deliver the proceeds of the sale to the trustee and thereupon acquire the property of the seller in the stock in bulk, if the seller delivers to the buyer,

- (a) the consent to the sale in Form 3 of unsecured trade creditors of the seller representing not less than 60 per cent in number and amount of the claims that exceed \$50 of all the unsecured trade creditors of the seller of whose claims the buyer has notice; and
- (b) an affidavit of the seller deposing that he delivered or caused to be delivered to all of his unsecured trade creditors and secured trade creditors personally or by registered mail addressed to them at their last known addresses at least fourteen days before the date fixed for the completion of the sale copies of the contract of the sale in bulk, the statement mentioned in subsection 1 of section 4, and the statement of affairs in Form 4, and deposing that the affairs of the seller as disclosed in the statement of affairs have not materially changed since it was made.

Documents  
to be  
exhibited

(3) Duplicate originals of the documents mentioned in clause b of subsection 2 shall be attached as exhibits to the affidavit mentioned therein. R.S.O. 1960, c. 43, s. 8.

Appointment  
of trustee

9.—(1) Where a sale in bulk is being completed under subsection 2 of section 8, a trustee shall be appointed,

- (a) by the seller with the consent in Form 3 of his unsecured trade creditors representing not less than 60 per cent in number and amount of the claims that exceed \$50 of the unsecured trade creditors as shown by the statement mentioned in section 4; or



- (b) by a judge upon the application of any person interested where the unsecured trade creditors of the seller representing not less than 60 per cent in number and amount of the claims that exceed \$50 as shown by the statement mentioned in section 4 have consented to the sale in bulk but have not consented to the appointment of a trustee, or where the trustee appointed under clause a is unable or unwilling to act.

(2) Every trustee shall forthwith give security in cash or by bond of a guarantee company satisfactory to a judge for the due accounting for all property received by him as trustee and for the due and faithful performance of his duties, and the security shall be deposited with the clerk of the court and shall be given in favour of the creditors generally and may be enforced by any succeeding trustee or by any one of the creditors on behalf of all by direction of the judge and the amount of the security may be increased or decreased by the judge at any time. R.S.O. 1960, c. 43, s. 9.

**10.** Where a sale in bulk is completed under subsection 2 of section 8,

- (a) the seller shall deliver to the trustee a statement verified by the affidavit of the seller showing the names and addresses of all creditors of the seller and the amount of the indebtedness or liability due, owing, payable or accruing due, or to become due and payable by the seller to each of them; and
- (b) the seller shall pay to the trustee all moneys received by him from the buyer on account of the purchase price under section 6; and
- (c) the buyer shall pay or deliver the balance of the proceeds of the sale to the trustee. R.S.O. 1960, c. 43, s. 10.

When proceeds of sale to be paid over to trustee

**11.—(1)** Within five days after the completion of a sale in bulk, the buyer shall file in the office of the clerk of the court an affidavit setting out the particulars of the sale, including the subject-matter thereof and the name and address of the trustee, if any, and exhibiting duplicate originals of the statement mentioned in section 4, the statement, if any, mentioned in clause b of subsection 1 of section 8, the waivers, if any, mentioned in clause c of subsection 1 of section 8 and the consent and affidavit, if any, mentioned in subsection 2 of section 8.

Filings on completion of sale

(2) For services rendered in connection with the filings required by subsection 1, the clerk of the court is entitled to the following fees:

Fees

1. For filing affidavit.....	\$1.00
2. For a search .....	.50

3. For a certificate of filing of affidavit . . . . . .50
4. For copies of affidavit and certifying the same,  
for every 100 words . . . . . .20
5. For production and inspection of affidavit . . . . .10

Failure to  
file

(3) If the buyer fails to comply with subsection 1, a judge may at any time,

- (a) upon the application of the trustee or a creditor, order the buyer to comply therewith; or
- (b) upon the application of the buyer, extend the time for compliance therewith; or
- (c) upon the application of the buyer after the lapse of one year from the date of the completion of the sale in bulk and upon being satisfied that the claims of all unsecured trade creditors and secured trade creditors of the seller existing at the time of the completion of the sale have been paid in full and that no action or proceeding is pending to set aside the sale or to have the sale declared void and that the application is made in good faith and not for any improper purpose, make an order dispensing with compliance therewith. R.S.O. 1960, c. 43, s. 11.

Distribution  
of proceeds  
of sale

**12.**—(1) Where the proceeds of the sale are paid or delivered to a trustee under section 10, the trustee is a trustee for the general benefit of the creditors of the seller and he shall distribute the proceeds of the sale among the creditors of the seller, and, in making the distribution, all creditors' claims shall be proved in like manner and are subject to like contestation before a judge and, subject to section 13, are entitled to like priorities as in the case of a distribution under the *Bankruptcy Act* (Canada), as amended or re-enacted from time to time, and shall be determined as of the date of the completion of the sale.

R.S.C. 1952,  
c. 14

Notice

(2) Before making the distribution, the trustee shall cause a notice thereof to be published in at least two issues of a newspaper having general circulation in the locality in which the stock in bulk was situated at the time of the sale, and the trustee shall not make the distribution until at least fourteen days after the last of such publications.

Petition  
for  
receiving  
order

(3) Upon notice to the trustee within thirty days after the date of the filing of the documents mentioned in section 11 that a petition for a receiving order against the seller has been filed, the trustee shall not distribute the proceeds of the sale until the final disposition of the petition and, where a receiving order is made pursuant to the petition, the trustee shall pay the proceeds of the sale, after deducting therefrom his fee and disbursements, to the trustee appointed by the receiving order. R.S.O. 1960, c. 43, s. 12.

**13.** Nothing in this Act affects the rights of any municipality under *The Assessment Act* or Part XXIV of *The Municipal Act*. R.S.O. 1960, c. 43, s. 13, *amended*.

Municipal  
rights  
preserved  
R.S.O. 1970,  
cc. 32, 284

**14.—(1)** Subject to subsection 3, the fee of the trustee shall be as follows:

Fee of  
trustee

- 1. Where the proceeds of the sale do not exceed \$5,000 ..... \$ 250
- 2. Where the proceeds of the sale exceed \$5,000 but do not exceed \$25,000 ..... \$ 250  
plus 3 per cent of the amount by which the proceeds of the sale exceed \$5,000
- 3. Where the proceeds of the sale exceed \$25,000 but do not exceed \$100,000 ..... \$ 850  
plus 2 per cent of the amount by which the proceeds of the sale exceed \$25,000
- 4. Where the proceeds of the sale exceed \$100,000 \$ 2,350  
plus 1 per cent of the amount by which the proceeds of the sale exceed \$100,000

(2) In the absence of an arrangement between the seller and the trustee to the contrary, the fee, together with any disbursements made by the trustee, shall be deducted by him from the moneys to be paid to the creditors. Idem

(3) Where the proceeds of the sale exceed the amount required to pay in full all indebtedness of the seller to his creditors, the fee of the trustee together with any disbursement made by the trustee shall be deducted by him from the excess proceeds to the extent of that excess, and any sum remaining unpaid thereafter shall be paid as provided in subsection 1. R.S.O. 1960, c. 43, s. 14. Idem

**15.—(1)** Any affidavit required to be made under this Act by a seller,

Who may  
make  
affidavits

- (a) if the seller is a partnership, shall be made severally by all of the partners; or
- (b) if the seller is a corporation, shall be made by an officer or director of the corporation and shall state that the deponent has a personal knowledge of the facts deposed to.

(2) Upon the application of a seller and upon being satisfied that good and sufficient cause exists that any affidavit required to be made under this Act should be made otherwise than under subsection 1, a judge may order accordingly. R.S.O. 1960, c. 43, s. 15. Idem

Effect of  
buyer  
failing to  
comply  
with  
Act  
Personal  
liability  
of buyer

**16.**—(1) A sale in bulk is voidable unless the buyer has complied with this Act.

(2) If a sale in bulk has been set aside or declared void and the buyer has received or taken possession of the stock in bulk, he is personally liable to account to the creditors of the seller for the value thereof, including all moneys, security and property realized or taken by him from, out of, or on account of, the sale or other disposition by him of the stock in bulk. R.S.O. 1960, c. 43, s. 16.

Who may  
bring  
action

**17.**—(1) An action or proceeding to set aside or have declared void a sale in bulk may be brought or taken by a creditor of the seller, and, if the seller is adjudged bankrupt, by the trustee of his estate.

Where no  
right of  
action

(2) No action shall be brought or proceeding taken in respect of real property included in a sale in bulk if the real property has been sold, transferred, charged or mortgaged to a *bona fide* purchaser, transferee, chargee or mortgagee for valuable consideration without actual notice of non-compliance with the Act by the buyer. R.S.O. 1960, c. 43, s. 17.

Burden  
of proof

**18.** In an action or proceeding in which a sale in bulk is attacked or comes in question, whether directly or indirectly, the burden of proof that this Act has been complied with is upon the person upholding the sale in bulk. R.S.O. 1960, c. 43, s. 18.

Limitation  
of action

**19.** No action shall be brought or proceeding taken to set aside or have declared void a sale in bulk for failure to comply with this Act unless the action is brought or the proceeding is taken either before the documents are filed under section 11 or within six months after the date on which the documents were filed under section 11. R.S.O. 1960, c. 43, s. 19.

FORM 1

(Section 4 (1) )

The Bulk Sales Act

STATEMENT AS TO SELLER'S CREDITORS

Statement showing names and addresses of all unsecured trade creditors and secured trade creditors of .....

of the ..... of ..... in the ..... of ..... and the amount of the indebtedness or liability due, owing, payable or accruing due or to become due by him to each of them.

UNSECURED TRADE CREDITORS

Name of Creditor	Address	Amount

SECURED TRADE CREDITORS

Name of Creditor	Address	Amount	Nature of Security	Due or becoming due on the date fixed for the completion of the sale

I, ..... of the ..... of ..... in the ..... of ..... make oath and say:

1. That the foregoing statement is a true and correct statement
- (a) of the names and addresses of all the unsecured trade creditors of the said ..... and of the amount of the indebtedness or liability due, owing, payable or accruing due or to become due and payable by the said ..... to each of the said unsecured trade creditors; and

(b) of the names and addresses of all the secured trade creditors of the said ..... and of the amount of the indebtedness or liability due, owing, payable or accruing due or to become due and payable by the said ..... to each of the said secured creditors, the nature of their security, and whether they are or in the event of sale will become due and payable on the date fixed for the completion of the sale.

(and, if the seller is a corporation)

2. That I am ..... of the Corporation, and have personal knowledge of the facts herein deposed to.

SWORN before me, etc. |



## FORM 2

(Section 8 (1) (c) )

*The Bulk Sales Act*

## WAIVER

In the matter of the sale in bulk

BETWEEN

*Seller*

— and —

*Buyer*

I, ....., of the ..... of .....,  
 in the ..... of ....., a secured  
 creditor of the above-named seller, hereby waive the provisions of *The Bulk Sales Act* that  
 require that adequate provision be made for the immediate payment in full of my claim  
 forthwith after completion of the sale, and I hereby acknowledge and agree that the buyer may  
 pay or deliver the proceeds of the sale to the seller and thereupon acquire the property of the  
 seller in the stock without making provision for the immediate payment of my claim and that  
 any right to recover payment of my claim may, unless otherwise agreed, be asserted against the  
 seller only.

DATED at ..... this ..... day of ....., 19...

Witness:

|

R.S.O. 1960, c. 43, Form 2.

FORM 3

(Sections 8 (2) (a) and 9 (1) (a) )

*The Bulk Sales Act*

CONSENT

In the matter of the sale in bulk

BETWEEN:

*Seller*

— and —

*Buyer*

I, ..... of the ..... of .....  
in the ..... of ..... , an unsecured trade creditor of the  
above-named seller, hereby acknowledge and agree;

- 1. that I have received,
  - (a) a copy of the statement showing the names and addresses of the unsecured trade creditors and the amount of the indebtedness or liability due, owing, payable or accruing due or to become due and payable by the seller, and showing the names and addresses of his secured trade creditors, the nature of their security and whether their claims are or, in the event of sale, become due on the date fixed for completion of the sale, and the amount of the indebtedness or liability due, or owing, payable or accruing due or to become due and payable by the seller;
  - (b) a statement of the affairs of the seller; and
  - (c) a copy of the contract of the sale in bulk;
- 2. that I consent to the sale; and
- 3. that I consent to the appointment of ..... as trustee.

DATED at ..... , this ..... day of ..... , 19....

Witness:

|

## FORM 4

(Section 8 (2) (b) )

*The Bulk Sales Act*

## STATEMENT OF AFFAIRS

*Assets included in the Sale in Bulk*

(a) Amount of the proceeds of the sale . . . . . \$ . . . . .

*Assets not included in the Sale in Bulk*

(b) Stock-in-trade at cost price not exceeding fair value . . . . . \$ . . . . .

(c) Trade fixtures, fittings, utensils, etc. . . . . \$ . . . . .

(d) Book debts—Good . . . . . \$ . . . . .

Doubtful . . . . . \$ . . . . .

Bad . . . . . \$ . . . . .

Estimated to produce . . . . . \$ . . . . .

(e) Bills of exchange, promissory notes, etc. . . . . \$ . . . . .

(f) Cash in bank . . . . . \$ . . . . .

(g) Cash on hand . . . . . \$ . . . . .

(h) Livestock . . . . . \$ . . . . .

(i) Machinery, equipment, and plant . . . . . \$ . . . . .

(j) Real estate . . . . . \$ . . . . .

(k) Estimated value of securities in hands of secured creditors . . . . . \$ . . . . .

(l) Furniture . . . . . \$ . . . . .

(m) Life insurance policies . . . . . \$ . . . . .

(n) Stocks and bonds . . . . . \$ . . . . .

(o) Interest in estates . . . . . \$ . . . . .

(p) Other property, viz. . . . . \$ . . . . .

Total . . . . . \$ . . . . .

*Liabilities*

(q) Unsecured trade creditors . . . . . \$ . . . . .

(r) Secured trade creditors . . . . . \$ . . . . .

(s) Preferred creditors . . . . . \$ . . . . .

(t) All other liabilities, except contingent liabilities set out below . . . . . \$ . . . . .

Total . . . . . \$ . . . . .

Surplus or deficiency . . . . . \$ . . . . .

*Contingent Liabilities*

(u) Liabilities under endorsements and guarantees . . . . . \$ . . . . .

(v) All other contingent liabilities . . . . . \$ . . . . .

Total . . . . . \$ . . . . .

I, . . . . ., of the . . . . . of . . . . .,

in the . . . . . of . . . . ., make oath and say that the above statement is to the best of my knowledge and belief a full, true and complete statement of my affairs on the . . . . . day of . . . . ., 19 . . . . ., (which date shall not be more than 30 days before the date of the affidavit) and fully discloses all my property of every description.

SWORN before me, etc.

## CHAPTER 53

**The Business Corporations Act****1.—(1)** In this Act,Interpre-  
tation

1. “affiliate” means an affiliated body corporate within the meaning of subsection 4;
2. “articles of incorporation” or “articles” means the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which a corporation is incorporated, and includes any amendments thereto;
3. “associate”, where used to indicate a relationship with any person, means,
  - i. any body corporate of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the body corporate for the time being outstanding,
  - ii. any partner of that person acting by or for the partnership of which they are both partners,
  - iii. any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity,
  - iv. any spouse, son or daughter of that person, or
  - v. any relative of such person or of his spouse, other than a relative referred to in subparagraph iv, who has the same home as such person;
4. “authorized capital” means the authorized capital as determined under section 24;
5. “body corporate” means any body corporate with or without share capital and whether or not it is a corporation to which this Act applies;
6. “certificate of incorporation” includes letters patent, a special Act or any other instrument by which a corporation is incorporated;
7. “certified copy” means,
  - i. in relation to a document of a corporation, a copy of the document certified to be a true copy under the seal of the corporation and signed by an officer thereof,

- ii. in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar or clerk thereof,
  - iii. in relation to a document in the custody of the Department, a copy of the document certified to be a true copy under the seal of the Minister and signed by the Minister or by such officer of the Department as is designated by the regulations;
- 8. "Commission" means the Ontario Securities Commission;
  - 9. "corporation" means a body corporate with share capital to which this Act applies;
  - 10. "court" means the Supreme Court of Ontario presided over by one of those judges of the High Court who are designated by the Chief Justice of the High Court for the purpose of hearing applications under this Act;
  - 11. "debt obligation" means a bond, debenture, note or other similar obligation of a body corporate, whether secured or unsecured;
  - 12. "Department" means the Department of the Minister;
  - 13. "equity share" means any share of any class of shares of a body corporate carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
  - 14. "financial statement" means a financial statement referred to in section 172;
  - 15. "insider" or "insider of a corporation" means,
    - i. any director or senior officer of a corporation that is offering its securities to the public,
    - ii. any person who beneficially owns, directly or indirectly, equity shares of such a corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding, but, in computing the percentage of voting rights attached to equity shares owned by an underwriter as defined in *The Securities Act*, there shall be excluded any equity shares that have been acquired by him as underwriter in the course of distribution to the public of such shares, but such exclusion ceases to have effect on completion or cessation of the distribution to the public by him, or



- iii. any person who exercises control or direction over the equity shares of such a corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding;
- 16. “interim financial statement” means a financial statement referred to in section 185;
- 17. “issued capital” means the issued capital as determined under section 32;
- 18. “Minister” means the Minister of Financial and Commercial Affairs or such other member of the Executive Council to whom the administration of this Act may be assigned;
- 19. “officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manager, or any other person designated an officer by by-law or by resolution of the directors;
- 20. “personal representative”, where used with reference to holding shares in that capacity, means an executor, administrator, guardian, tutor, trustee, receiver or liquidator or the committee of or curator to a mentally incompetent person;
- 21. “prescribed” means prescribed by the regulations;
- 22. “regulations” means the regulations made under this Act;
- 23. “related person”, where used to indicate a relationship with any person, means,
  - i. any spouse, son or daughter of that person,
  - ii. any relative of such person or of his spouse, other than a relative referred to in subparagraph i, who has the same home as such person, or
  - iii. any body corporate of which such person and any of the persons referred to in subparagraph i or ii or the partner or employer of such person, either alone or in combination, beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of the body corporate for the time being outstanding;
- 24. “security” means any share of any class of shares or any debt obligation of a body corporate;

25. "senior officer" means,
- i. the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other individual who performs functions for the corporation similar to those normally performed by an individual occupying any such office, and
  - ii. each of the five highest paid employees of a corporation, including any individual referred to in subparagraph i;
26. "special by-law" means a by-law that is not effective until it is,
- i. passed by the directors of a corporation, and
  - ii. confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the shareholders of the corporation duly called for that purpose, or such greater proportion of the votes cast as the articles provide, or, in lieu of such confirmation, by the consent in writing of all the shareholders entitled to vote at such meeting;
27. "special resolution" means a resolution that is not effective until it is,
- i. passed by the directors of a corporation, and
  - ii. confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the shareholders of the corporation duly called for that purpose, or such greater proportion of the votes cast as the articles provide, or, in lieu of such confirmation, by the consent in writing of all the shareholders entitled to vote at such meeting;
28. "warrant" means any document issued by a body corporate entitling the holder to purchase a security of the body corporate on specified terms.

Interpre-  
tation:  
subsidiary  
body  
corporate

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

- (a) it is controlled by,
  - (i) that other, or
  - (ii) that other and one or more bodies corporate each of which is controlled by that other, or
  - (iii) two or more bodies corporate each of which is controlled by that other; or
- (b) it is a subsidiary of a body corporate that is that other's subsidiary.

(3) For the purposes of this Act, a body corporate shall be deemed to be another's holding body corporate if, but only if, that other is its subsidiary. Holding  
body  
corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person. Affiliated  
body  
corporate

(5) For the purposes of this Act, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if, Control

- (a) shares of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and
- (b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate.

(6) For the purposes of this Act, Insider

- (a) every director or senior officer of a body corporate that is itself an insider of another body corporate shall be deemed to be an insider of such other body corporate;
- (b) an individual shall be deemed to own beneficially securities beneficially owned by a body corporate controlled by him or by an affiliate of such body corporate;
- (c) a body corporate shall be deemed to own beneficially securities beneficially owned by its affiliates; and
- (d) the acquisition or disposition by an insider of a put, call or other transferable option in respect of a security shall be deemed a change in the beneficial ownership of the security to which such transferable option relates.

(7) For the purposes of this Act, a corporation is insolvent if its liabilities exceed the realizable value of its assets or if the corporation is unable to pay its debts as they become due. Insolvency

(8) In determining the number of shareholders of a corporation, for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one shareholder. Number of  
shareholders

(9) A body corporate shall be deemed to be offering its securities to the public, Offering  
securities  
to public

- (a) in respect of any of the securities of which a prospectus or statement of material facts has been filed with and accepted by the Commission under *The Securities Act*, or any predecessor thereof, so long as any of such securities are outstanding; or R.S.O. 1970,  
c. 426

- (b) where any of its shares are listed and posted for trading on any stock exchange in Ontario recognized by the Commission,

except that where, upon the application of a corporation that has fewer than fifteen shareholders, the Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as the Commission may impose, that the corporation shall be deemed to have ceased to be offering its securities to the public. 1970, c. 25, s. 1.

Application

**2.**—(1) This Act, except where it is otherwise expressly provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act.

R.S.O. 1970,  
c. 254

Idem

(2) This Act does not apply to a corporation that,

- (a) is a company within the meaning of *The Corporations Act* and has objects in whole or in part of a social nature;
- (b) is a corporation or company within the meaning of Part V of *The Corporations Act*;
- (c) is a corporation that is an insurer within the meaning of subsection 1 of section 161 of *The Corporations Act*;
- (d) is a corporation to which *The Credit Unions Act* applies. 1970, c. 25, s. 2.

R.S.O. 1970,  
c. 89

R.S.O. 1970,  
c. 96

#### INCORPORATION

Incorporation

**3.**—(1) A corporation may be incorporated under this Act for any lawful objects to which the authority of the Legislature extends, except those of a corporation the incorporation of which is provided for in any other Act.

Idem

(2) Notwithstanding subsection 1, a corporation may be incorporated under this Act with power only to lend and invest money on mortgage of real estate or otherwise, or with power only to



accept and execute the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accept the duty of and to act generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of *The Loan and Trust Corporations Act*, but the number of its shareholders, exclusive of persons who are in the employment of the corporation, shall be limited by its articles to five, and no such corporation shall issue debt obligations except to its shareholders, or borrow money on the security of its property except from its shareholders, or receive money on deposit or offer its securities to the public.

R.S.O. 1970,  
c. 254

(3) Where the practice of a profession is governed by an Act, a corporation may be incorporated to practise the profession only if such Act expressly permits the practice of such profession by a corporation and subject to the provisions of such Act. 1970, c. 25, s. 3. Professions

4.—(1) One or more persons, being a body corporate or a natural person who is of the age of twenty-one years or more, may incorporate a corporation by signing and delivering to the Minister in duplicate articles of incorporation. Articles of incorporation

(2) The articles of incorporation shall set out:

Contents of  
articles

1. The name of the corporation to be incorporated.
2. The objects for which the corporation is to be incorporated.
3. The place in Ontario where the head office of the corporation is to be located, giving the municipality and the county or district or, where the head office is to be located in territory without municipal organization, the geographic township and district and the address giving the street and number, if any.
4. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share, or, where the shares are to be without par value, the consideration, if any, exceeding which each share may not be issued or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued.
5. Where there are to be special shares, the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them.
6. The restrictions, if any, to be placed on the transfer of its shares or any class thereof.



7. The number of directors of the corporation and the names in full and the residence address, giving the street and number, if any, of each person who is to be a first director of the corporation.
8. The class and number of shares, if any, to be taken by each incorporator and the amount to be paid therefor.
9. The names in full, and the residence address, giving street and number, if any, of each of the incorporators.
10. Any other matter required by this Act or the regulations to be set out in the articles.

Idem (3) The articles may set out any provision that is authorized by this Act to be set out in the articles or that could be the subject of a by-law of the corporation.

Consent of first directors (4) Where the articles name as a first director a person who is not an incorporator, the articles shall have attached thereto his written and signed consent to act as a first director.

Affidavits (5) The signature of each incorporator and of each first director and the fact that each incorporator who is a natural person and each first director is of the age of twenty-one years or more shall be verified by affidavit. 1970, c. 25, s. 4.

Certificate of incorporation **5.**—(1) If the articles conform to law and the approval of any person or body required by statute to approve the incorporation has been given, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the articles the word "Filed" and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the incorporators or their agent a certificate of incorporation to which he shall affix the other duplicate.

Idem (2) A corporation comes into existence upon the date set forth in its certificate of incorporation.

Idem (3) A certificate of incorporation is conclusive proof that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this Act, except in a proceeding under section 250 to cancel the certificate for cause. 1970, c. 25, s. 5.

#### NAME

Use of "Limited" "Incorporated" **6.**—(1) The name of a corporation shall have the word "Limited" or "Incorporated" or its corresponding abbreviation "Ltd." or "Inc." as the last word thereof.

(2) Where a corporation or a director, officer or employee Idem thereof uses the name of the corporation, the word "Limited" or "Incorporated" or its corresponding abbreviation "Ltd." or "Inc.", shall appear as the last word thereof.

(3) Stamping, writing, printing or otherwise marking on Exception goods, wares or merchandise of the corporation or upon packages containing the goods, wares or merchandise shall be deemed not to be a use of the name within the meaning of subsection 2. 1970, c. 25, s. 6, *amended*.

**7.** Notwithstanding section 6, a corporation may use its name Use of name in such form and in such language as the articles provide and as the Minister approves. 1970, c. 25, s. 7.

**8.—**(1) The name of a corporation shall not, Corporate name

- (a) be the same as or similar to the name of a known body corporate, association, partnership or individual whether in existence or not if its use would be likely to deceive, except where the body corporate, association, partnership or individual signifies its or his consent in writing to the use of the name in whole or in part, and, if required by the Minister,
  - (i) in the case of a body corporate, undertakes to dissolve or change its name to a dissimilar name within six months after the filing of the articles or amendment by which the name is acquired, or
  - (ii) in the case of an association, partnership or individual, undertakes to cease to carry on its or his business or activities, or change its or his name to a dissimilar name, within six months after the filing of the articles or amendment by which the name is acquired;
- (b) suggest or imply a connection with the Crown or the Government of Canada or the government of a municipality or any province or territory of Canada or any department, branch, bureau, service, agency or activity of any such government or municipality without the consent in writing of the appropriate authority;
- (c) where the objects applied for are of a political nature, suggest or imply a connection with a political party or a leader of a political party;
- (d) include the word "co-operative" or any abbreviation or derivation thereof;
- (e) contain any word or phrase that indicates or implies that it is incorporated for any object other than one or more of the objects set out in its articles;

- (f) contain any word or phrase or any abbreviation or derivation thereof, the use of which is prohibited or restricted under any other Act unless in the latter case the restrictions are complied with; or
- (g) in the opinion of the Minister, be objectionable on any public grounds.

Change of  
name if  
objection-  
able

(2) If a corporation through inadvertence or otherwise has acquired a name contrary to subsection 1, the Minister may, after he has given the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to the name specified in the certificate, and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to  
perform  
undertaking

(3) Where an undertaking referred to in clause *a* of subsection 1 is given by a corporation to which this Act applies and the undertaking is not carried out within the time specified, the Minister may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to the name specified in the certificate, and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem

(4) Where an undertaking referred to in clause *a* of subsection 1 is given by a body corporate to which this Act does not apply or by an association, partnership or individual and the undertaking is not carried out within the time specified, the Minister may, after giving the corporation that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to the name specified in the certificate, and, upon the issuance of the certificate, the articles are amended accordingly. 1970, c. 25, s. 8.

Change not  
to affect  
rights, etc.

**9.** A change in the name of a corporation does not affect its rights or obligations. 1970, c. 25, s. 9.

Unauthor-  
ized use of  
"Limited",  
etc.

**10.**—(1) No person, partnership or association while not incorporated shall trade or carry on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof is used.

Idem

(2) Where a corporation carries on business or identifies itself to the public in a name or style other than as provided in the articles, such name or style shall not include the word "Limited", "Incorporated" or "Corporation" or any abbreviation thereof. 1970, c. 25, s. 10.

Reservation  
of name

**11.**—(1) Any person may, on application in writing and on the payment of the prescribed fee, reserve a corporate name for

the use and benefit of the applicant or his nominee for a period of sixty days or such lesser period as he specifies, if the name is at the time not contrary to section 8.

(2) During the period for which a name has been reserved, no <sup>Idem</sup> corporation shall acquire the name or a similar name without the consent in writing of the person for whose use and benefit the name has been reserved. 1970, c. 25, s. 11.

**12.** An individual, partnership or association may notify the <sup>Notice of name</sup> Minister of the name under which his or its business or undertaking is carried on, and thereupon the Minister shall make a notation thereof in his records. 1970, c. 25, s. 12.

#### SEAL AND HEAD OFFICE

**13.—**(1) A corporation shall have a seal which shall be <sup>Corporate seal</sup> adopted and may be changed by resolution of the directors.

(2) The name of the corporation shall appear in legible characters on the seal. <sup>Idem</sup> 1970, c. 25, s. 13.

**14.—**(1) Subject to subsection 2, a corporation shall at all <sup>Head office</sup> times have its head office at the place in Ontario where the articles provide that the head office is to be located.

(2) A corporation may by special by-law change the municipality or geographic township in which its head office is located to another place in Ontario. <sup>Change of head office</sup>

(3) Where the location of the head office of a corporation is changed by reason only of the annexation or amalgamation of the place in which the head office is located to or with another municipality, such change does not constitute and has never constituted a change within the meaning of subsection 2. <sup>Where municipality annexed or amalgamated</sup>

(4) The corporation shall, within ten days after a by-law passed under subsection 2 has been confirmed by the shareholders, file a certified copy of the by-law with the Minister. <sup>Filing of by-law</sup>

(5) A corporation may by resolution of the directors change the location of its head office within a municipality or geographic township and shall, within ten days after the passing of the resolution, file with the Minister notice of the change giving the address including the street and number, if any, of the new location. <sup>Change of street address</sup>

(6) Failure to comply with subsection 4 or 5 does not affect the <sup>Validity</sup> validity of the by-law or resolution. 1970, c. 25, s. 14.



## POWERS

*General*

Corporate  
character-  
istics

**15.—**(1) Every corporation has power,

- (a) to have perpetual succession;
- (b) to contract and sue and be sued in its corporate name; and
- (c) to carry on business in or identify itself to the public by a name or style other than its corporate name.

Incidental  
powers

## (2) A corporation has power as incidental and ancillary to the objects set out in its articles,

- 1. to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;
- 2. to acquire or undertake the whole or any part of the business, property and liabilities of any person carrying on any business that the corporation is authorized to carry on;
- 3. to apply for, register, purchase, lease, acquire, hold, use, control, license, sell, assign or dispose of patents, patent rights, copyrights, trade marks, formulae, licences, inventions, processes, distinctive marks and similar rights;
- 4. to enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person or body corporate carrying on or engaged in or about to carry on or engage in any business or transaction that the corporation is authorized to carry on or engage in or any business or transaction capable of being conducted so as to benefit the corporation;
- 5. to take or otherwise acquire and hold securities in any other body corporate having objects altogether or in part similar to those of the corporation or carrying on any business capable of being conducted so as to benefit the corporation;
- 6. to lend money to any other body corporate or any firm or person having dealings with the corporation or with whom the corporation proposes to have dealings or to any other body corporate any of whose shares are held by the corporation;



7. to apply for, secure or acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise, and to exercise, carry out and enjoy any charter, licence, power, authority, franchise, concession, right or privilege, that any government or authority or any body corporate or other public body may be empowered to grant, and to pay for, aid in and contribute toward carrying it into effect and to assume any liabilities or obligations incidental thereto;
8. to establish and support or aid in the establishment and support of associations, institutions, funds or trusts for the benefit of employees or former employees of the corporation or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this paragraph, and to subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;
9. to promote any body corporate for the purpose of acquiring or taking over any of the property and liabilities of the body corporate or for any other purpose that may benefit the corporation;
10. to purchase, lease, take in exchange, hire or otherwise acquire any personal property and any rights or privileges that the corporation considers necessary or convenient for the purposes of its business;
11. to construct, maintain and alter any buildings or works necessary or convenient for its objects;
12. to acquire by purchase, lease or otherwise and hold any land or interest therein necessary for its actual use and occupation or for carrying on its undertaking, and, when no longer necessary therefor, to sell, alienate or convey it;
13. to take, hold and alienate real and personal property that has in good faith been mortgaged to the corporation by way of security for, or conveyed to it in satisfaction of, debts previously contracted in the course of its business, or purchased at judicial sales upon levy for such indebtedness, or otherwise purchased for the purpose of avoiding a loss to the corporation;
14. to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches or sidings, bridges, reservoirs, watercourses, wharves, manufactories, warehouses, electric works, shops, stores

and other works and conveniences that may advance the interests of the corporation, and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;

15. to raise and assist in raising money for, and aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person or body corporate and guarantee the performance or fulfilment of any contracts or obligations of any person or body corporate, and in particular guarantee the payment of the principal of and interest on the debt obligations of any such person or body corporate;
16. to draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments;
17. where authorized to do so by special resolution, to sell, lease, exchange or otherwise dispose of the undertaking of the corporation or any part thereof as an entirety or substantially as an entirety for such consideration as the corporation thinks fit;
18. to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the corporation in the ordinary course of its business;
19. to adopt such means of making known the products of the corporation as may seem expedient, and in particular by advertising, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes and rewards and making donations;
20. to cause the corporation to be registered and recognized in any foreign jurisdiction or any province or territory of Canada, and designate persons therein according to the laws of that foreign jurisdiction or that province or territory of Canada to represent the corporation and to accept service for and on behalf of the corporation of any process or suit;
21. to allot and issue fully-paid shares of the corporation in payment or part payment of any property purchased or otherwise acquired by the corporation or for any past services performed for the corporation;
22. to distribute among the shareholders of the corporation in cash, kind, specie or otherwise as may be resolved, by

way of dividend, bonus or in any other manner considered advisable, any property of the corporation, but not so as to decrease the capital of the corporation unless the distribution is made for the purpose of enabling the corporation to be dissolved or the distribution, apart from this paragraph, would be otherwise lawful;

23. to establish agencies and branches;
24. to take or hold mortgages, hypothecs, liens and charges to secure payment of the purchase price, or of any unpaid balance of the purchase price, of any part of the property of the corporation of whatsoever kind sold by the corporation, or for any money due to the corporation from purchasers and others and to sell or otherwise dispose of any such mortgage, hypothec, lien or charge;
25. to pay all costs and expenses of or incidental to the incorporation and organization of the corporation;
26. to invest and deal with the moneys of the corporation not immediately required for the objects of the corporation in such manner as may be determined;
27. to do any of the things authorized by this subsection and all things authorized by its articles as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
28. to do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the corporation,

except that the incidental and ancillary powers of a corporation incorporated under subsection 2 of section 3 are limited to those set out in paragraphs 7, 8, 11, 12, 16, 17, 18, 20, 22 and 25.

(3) Any of the powers set out in subsection 2 may be withheld or limited by the articles. Limited by articles

(4) Every corporation may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. 1970, c. 25, s. 15. Power to act outside Ontario

**16.**—(1) No act of a corporation and no transfer of real or personal property to or by a corporation, otherwise lawful, that is heretofore or hereafter done or made, is invalid by reason of the fact that the corporation was without capacity or power to do such act or make or receive such transfer, but such lack of capacity or power may be asserted, Acting outside powers

- (a) in a proceeding against the corporation by a shareholder under subsection 2;

- (b) in a proceeding by the corporation, whether acting directly or through a receiver, liquidator, trustee or other legal representative or through shareholders in a representative capacity, against a director or officer or former director or officer of the corporation; or
- (c) as cause for the cancellation of the certificate of incorporation of the corporation under section 250.

Restraining  
order

(2) A shareholder of a corporation may apply to a court of competent jurisdiction for an order to restrain the corporation from doing any act or transferring or receiving the transfer of real or personal property on the ground that the corporation lacks capacity or power for the purpose, and the court may, if it considers it to be just and equitable, grant an order prohibiting the corporation from doing the act or transferring or receiving the transfer of the real or personal property, but, where the act or transfer sought to be restrained or prohibited is being or to be done or made under a contract to which the corporation is a party,

- (a) all the parties to the contract shall be parties to the proceeding;
- (b) the court in granting the order may set aside the contract and allow the corporation or other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them from the granting of the order and setting aside of the contract, other than anticipated profits from the contract. 1970, c. 25, s. 16.

Loans to  
shareholders,  
directors,  
etc.

**17.**—(1) Except as provided in subsection 2, a corporation shall not,

- (a) make loans to any of its shareholders, directors or employees; or
- (b) give, directly or indirectly, by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase or subscription made or to be made by any person of any shares of the corporation.

Exceptions

(2) A corporation may,

- (a) make loans to any of its shareholders, directors or employees in the ordinary course of its business where the making of loans is part of the ordinary business of the corporation;
- (b) make loans to *bona fide* full-time employees of the corporation whether or not they are shareholders or directors, with a view to enabling them to purchase or erect dwelling houses for their own occupation, and may



take from such employees mortgages or other security for the repayment of such loans;

- (c) provide, in accordance with a scheme for the time being in force, money by way of loan for the purchase of or subscription for shares of the corporation by trustees, to be held by or for the benefit of *bona fide* employees of the corporation, whether or not they are shareholders or directors; or
- (d) make loans to *bona fide* employees of the corporation, other than directors, whether or not they are shareholders, with a view to enabling them to purchase or subscribe for shares of the corporation to be held by them by way of beneficial ownership.

(3) The power mentioned in clause *b, c or d* of subsection 2 may be exercised only under the authority of a special by-law. 1970, c. 25, s. 17. By special by-law only

### *Contracts*

**18.**—(1) A contract that if entered into by an individual person would be by law required to be in writing and under seal may be entered into on behalf of a corporation in writing under the seal of the corporation. Contracts in writing under seal

(2) A contract that if entered into by an individual person would be by law required to be in writing signed by the parties to be charged therewith may be entered into on behalf of a corporation in writing signed by any person acting under its authority, express or implied. Contracts in writing not under seal

(3) A contract that if entered into by an individual person would be by law valid although made by parol only and not reduced into writing may be entered into by parol on behalf of a corporation by any person acting under its authority, express or implied. 1970, c. 25, s. 18. Parol contracts

**19.** A corporation may, by writing under seal, empower any person, either generally or in respect of any specified matters, to execute, as its attorney and on its behalf in any place within or outside Ontario, documents to which it is a party in any capacity and that are required by law to be under seal, and every document signed by such attorney on behalf of the corporation acting within the scope of his authority, express or implied, and under his seal binds the corporation and has the same effect as if it were under the seal of the corporation. 1970, c. 25, s. 19. Power of attorney

**20.**—(1) In this section,

- (a) “contractor” means a person who enters into a pre-incorporation contract in the name of or on behalf of a corporation before its incorporation;

Interpretation



- (b) "other party" means a person with whom a contractor enters into a pre-incorporation contract;
- (c) "pre-incorporation contract" means a contract entered into by a contractor in the name of or on behalf of a corporation before its incorporation.

Adoption  
of pre-  
incorpora-  
tion  
contracts

(2) A corporation may adopt a pre-incorporation contract entered into in its name or on its behalf, and thereupon the corporation is entitled to the benefits and is subject to the liabilities that were contracted in its name or on its behalf and the contractor ceases to be entitled to such benefits or to be subject to such liabilities.

Non-  
adoption  
of pre-  
incor-  
poration  
contracts

(3) Where a pre-incorporation contract is not adopted by a corporation, the contractor is entitled to the benefits and subject to the liabilities under the contract and is entitled to recover from the corporation the value of any benefit received by the corporation under the contract.

Application  
to court  
for relief

(4) Whether or not a pre-incorporation contract is adopted by the corporation, the other party may apply to the court which may, notwithstanding subsections 2 and 3, make an order fixing or apportioning liability as between the contractor and the corporation in any manner the court considers just and equitable under the circumstances. 1970, c. 25, s. 20.

#### *By-laws and Resolutions*

By-laws

**21.**—(1) The directors may pass by-laws not contrary to this Act or to the articles to regulate,

- (a) the allotment and issue of shares, the payment thereof, the issue of share certificates, and the transfer and the registration of transfers of shares;
- (b) the declaration and payment of dividends;
- (c) the qualification and remuneration of the directors;
- (d) the time for and the manner of election of directors;
- (e) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to it;
- (f) the time and place and the notice to be given for the holding of meetings of shareholders and of the board of directors, the quorum at meetings of shareholders, the requirements as to proxies, and the procedure in all things at shareholders' meetings and at meetings of the board of directors;
- (g) the conduct in all other particulars of the affairs of the corporation.

Confirma-  
tion

(2) Subject to section 22, a by-law passed under subsection 1 and a repeal, amendment or re-enactment thereof is effective

from the time of its passing if it is confirmed, with or without variation, at a general meeting of the shareholders duly called for that purpose or at the next annual meeting of the shareholders, whichever is held first.

(3) The shareholders may, at the general meeting or the annual meeting mentioned in subsection 2, confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law is prejudicially affected by any such rejection, amendment or other dealing. Powers  
recon-  
firmation

(4) Where a by-law or repeal, amendment or re-enactment thereof is not confirmed at a meeting as required by subsection 2, it has effect from the time of its passing until the meeting but not thereafter, and no subsequent by-law, repeal, amendment or re-enactment of the same or similar substance has any effect until it is confirmed at a general meeting of the shareholders duly called for that purpose. 1970, c. 25, s. 21. Rejection

**22.**—(1) A by-law relating to the remuneration of a director as director shall fix the remuneration and the period for which it is to be paid. Remunera-  
tion of  
directors

(2) A by-law passed under subsection 1 is not effective until it is confirmed at a general meeting of the shareholders duly called for that purpose. 1970, c. 25, s. 22. Confirma-  
tion

**23.**—(1) Any by-law or resolution consented to at any time during a corporation's existence by the signatures of all the directors is as valid and effective as if passed at a meeting of the directors duly called, constituted and held for that purpose. By-laws  
and  
resolutions

(2) Any resolution consented to at any time during a corporation's existence by the signatures of all the shareholders entitled to vote at a meeting of shareholders is as valid and effective as if passed at a meeting of the shareholders duly called, constituted and held for that purpose. Idem

(3) Any by-law or resolution passed by the directors at any time during a corporation's existence may, in lieu of confirmation at a general meeting of shareholders, be confirmed in writing by all the shareholders entitled to vote at such meeting. Alternative  
method of  
confirming  
by-laws

(4) Where a by-law or resolution purports to have been consented to or confirmed under this section by the signatures of all the directors or shareholders, as the case may be, of the corporation, the signatures to the by-law or resolution are admissible in evidence as *prima facie* proof of the signatures of the directors or shareholders, as the case may be, that they purport to represent and are admissible in evidence as *prima facie* proof that the signatories to the by-law or resolution were all the directors or Evidentiary  
value of  
signatures

all the shareholders entitled to vote at meetings of shareholders, as the case may be, at the date that the by-law or resolution purports so to have been consented to or confirmed. 1970, c. 25, s. 23.

#### SHARES

##### *Authorized Capital*

Authorized  
capital

**24.**—(1) The authorized capital of a corporation shall be divided into shares with par value or without par value or both and may consist of shares of more than one class.

Par  
shares

(2) Where all the shares of a corporation are with par value, its authorized capital shall be expressed in Canadian or other currency in its articles, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of shares of each class multiplied by the par value thereof.

No par  
shares

(3) Where all the shares of a corporation are without par value, its authorized capital shall be expressed in its articles as a specified number of shares.

No par  
and par  
shares

(4) Where part of the shares of a corporation are with par value and part are without par value, its authorized capital shall be expressed in its articles as a specified number of shares of each class of shares having a specified par value and a specified number of shares of each class of shares without par value. 1970, c. 25, s. 24.

Considera-  
tion for  
no par  
shares

**25.**—(1) Where all the shares of a corporation are without par value or where part of its shares are with par value and part are without par value, the articles may provide,

- (a) that each share without par value shall not be issued for a consideration; or
- (b) the shares of each class of shares without par value shall not be issued for an aggregate consideration,

exceeding in amount or value a stated amount in Canadian or other currency, and the articles may provide, in addition, that such share or shares may be issued for such greater amount as the board of directors of the corporation by resolution determines.

Resolution  
increasing  
aggregate  
considera-  
tion for  
no par  
shares

(2) A resolution referred to in subsection 1 is not effective until,

- (a) a certified copy thereof has been filed with the Minister;
- (b) all prescribed fees have been paid; and
- (c) the Minister has so certified. 1970, c. 25, s. 25.

Common  
shares

**26.**—(1) The common shares of a corporation shall be shares to which there is attached no preference, right, condition, restric-

tion, limitation or prohibition set out in the articles of the corporation, other than a restriction on the allotment, issue or transfer.

(2) Where a corporation has one class of shares, that class shall be common shares and designated as provided in the articles. Classes of shares

(3) Where a corporation has more than one class of shares, one class shall be common shares, designated as provided in the articles, and the other shares shall be special shares and may consist of one or more classes of special shares and shall have attached thereto the designations, preferences, rights, conditions, restrictions, limitations or prohibitions set out in the articles. Idem

(4) No class of special shares shall be designated as preference shares or by words of like import, unless that class has attached thereto a preference or right over the common shares. 1970, c. 25, s. 26. Preference shares

**27.—**(1) Each class of special shares may have attached to it preferences, rights, conditions, restrictions, limitations or prohibitions, including but not limited to, Special shares

- (a) the right to cumulative, non-cumulative or partially cumulative dividends;
- (b) a preference over any other class or classes of shares as to the payment of dividends;
- (c) a preference over any other class or classes of shares as to repayment of capital upon the dissolution of the corporation or otherwise;
- (d) the exclusive right to elect part of the board of directors;
- (e) the right to convert the shares of that class into shares of another class or classes of shares;
- (f) the right of the corporation at its option to redeem all or part of the shares of that class;
- (g) the purchase for cancellation by the corporation of all or part of the shares of that class by agreement with the holders thereof at the lowest price at which, in the opinion of the directors, such shares are obtainable, but not exceeding an amount stated in or determined by the articles;
- (h) conditions, restrictions, limitations or prohibitions on the right to vote at meetings of shareholders.

(2) Any provision in the articles under clause *c* or *f* of subsection 1 shall set out the method by which the amount to be paid in respect of each share of the class is to be determined. 1970, c. 25, s. 27. Valuation of shares



Equality  
of shares  
of a class

**28.** Except as provided in section 29, each share of a class shall be the same in all respects as every other share of that class. 1970, c. 25, s. 28.

Special  
shares in  
series

**29.—**(1) The articles of a corporation may authorize the issue from time to time in one or more series of the special shares of a class and may authorize the directors to fix from time to time before such issue the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of each series of the class.

Voting  
rights

(2) The shares of all series of the same class of special shares shall carry the same voting rights or the same restrictions, conditions, limitations or prohibitions on the right to vote.

Proportionate  
abatement

(3) Where any dividends or amounts payable on a repayment of capital are not paid in full, the shares of all series of the same class of special shares shall participate rateably in respect of such dividends, including accumulations, if any, in accordance with the sums that would be payable on such shares if all such dividends were declared and paid in full, and on any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full. 1970, c. 25, s. 29.

Provision  
for first  
series in  
articles

**30.—**(1) The articles may set forth the designation, preferences, rights, conditions, restrictions, limitations and prohibitions attaching to the first series to be issued in which case the special shares of the first series may be issued in accordance with the articles.

Conditions  
to issue  
of series

(2) A series, other than one to which subsection 1 applies, shall not be issued until,

- (a) the directors have by resolution fixed the designation, preferences, rights, conditions, restrictions, limitations and prohibitions attaching to the special shares of the series; and
- (b) the statement referred to in section 31 has been filed with the Minister and the certificate of the Minister has been issued under section 31. 1970, c. 25, s. 30.

Filing of  
statement

**31.—**(1) For the purpose of bringing a resolution passed by the directors under subsection 2 of section 30 into effect the corporation shall deliver to the Minister, within six months after the resolution has been passed, a statement in duplicate executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation, and verified by affidavit of one of the officers or directors signing the statement, setting out,



- (a) the name of the corporation;
  - (b) a certified copy of the resolution;
  - (c) that the resolution was duly passed by the directors;
  - (d) the date of the passing of the resolution; and
  - (e) that the conditions, if any, contained in the articles or in any prior resolution precedent to the creation and issue of the shares of the series have been complied with.
- (2) If the statement conforms to law, the Minister shall, when all prescribed fees have been paid, Issuance of certificate
- (a) endorse on each duplicate of the statement the word "Filed" and the day, month and year of the filing thereof;
  - (b) file one of the duplicates in his office; and
  - (c) issue to the corporation or its agent a certificate of the filing to which he shall affix the other duplicate.
- (3) Upon the date set forth in the certificate of filing the resolution becomes effective and constitutes an amendment to the articles. 1970, c. 25, s. 31. Effect of certificate

### *Issued Capital*

**32.**—(1) Where all the shares of a corporation are with par value, its issued capital shall be expressed in Canadian or other currency, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of issued shares of each class multiplied by the par value thereof less such decreases in the issued capital as from time to time have been effected by the corporation in accordance with this Act. Issued capital: par value shares

(2) Where the shares of a corporation are without par value or where part of its shares are with par value and part are without par value, its issued capital shall be expressed in Canadian or other currency, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of issued shares of each class with par value multiplied by the par value thereof, together with the amount of the consideration for which the shares without par value from time to time outstanding were issued and together with such amounts as from time to time by by-law of the corporation may be transferred thereto and less such decreases in the issued capital as from time to time have been effected by the corporation in accordance with this Act. 1970, c. 25, s. 32. no par value shares, etc.

**33.**—(1) Where an issued share of a class with par value is cancelled, the issued capital is decreased by an amount equal to the par value of the shares of that class. Cancellation: of par share

of no par  
share

(2) Where an issued share of a class without par value is cancelled, the issued capital is decreased by an amount equal to the amount obtained by dividing,

- (a) that part of the issued capital attributable to that class of shares in accordance with subsection 2 of section 32;

by

- (b) the number of issued shares of that class.

of fraction  
of share

(3) Where a fraction of an issued share of a class is cancelled, the issued capital is decreased by an amount that bears the same proportion to the amount determined under subsection 1 or 2, as the case may be, that the fraction bears to a whole share of that class. 1970, c. 25, s. 33.

*Redemption, Purchase, Conversion and Surrender*

Redemption  
of special  
shares

**34.**—(1) Where the shares of a class of special shares are made redeemable by the articles and part only of the special shares are to be redeemed, the shares to be redeemed shall be selected,

- (a) by lot in such manner as the board of directors determines;
- (b) as nearly as may be in proportion to the number of special shares of the class registered in the name of each shareholder; or
- (c) in such other manner as the board of directors determines with the consent of the holders of special shares of the class obtained in the manner set out in subsection 2,

but the articles may confine the manner of selection to that set out in clause *a* or in clause *b*.

Idem

(2) Where shares of a class of special shares are selected in the manner referred to in clause *c* of subsection 1, the selection shall be consented to in writing by,

- (a) all the holders of the special shares of the class; or
- (b) at least 95 per cent of the holders of the special shares of the class holding at least 95 per cent of the issued shares of that class if, after twenty-one days notice has been given by sending notice to each of the holders of shares of that class addressed to him at his latest address as shown on the records of the corporation, none of the holders of shares of that class dissents in writing to the corporation.

Idem

(3) Where a holder of redeemable special shares of a corporation that is not offering its securities to the public dies or leaves its employment, notwithstanding subsection 1, it may within one year of such event redeem all or any of the special shares held by him. 1970, c. 25, s. 34.

**35.**—(1) Where the shares of a class of special shares are made purchasable for cancellation by the articles, then, except where the purchase is made on the open market or all the holders of the class consent to the purchase, the corporation may purchase the shares only pursuant to tenders received by the corporation upon request for tenders addressed to all the holders of the shares of the class, and the corporation shall accept only the lowest tenders.

Purchase of  
special  
shares for  
cancellation

(2) Where, in response to the invitation for tenders, two or more shareholders submit tenders at the same price and the tenders are accepted by the corporation as to part only of the shares offered, the corporation shall accept part of the shares offered in each tender in proportion as nearly as may be to the total number of shares offered in each tender. 1970, c. 25, s. 35.

Idem

**36.**—(1) The articles of a corporation shall not provide for the conversion of shares with par value into shares with par value if the aggregate par value of the shares being converted is not equal to the aggregate par value of the shares into which they are converted.

Conversion  
of par  
shares to  
par shares

(2) Where, in accordance with the articles, shares with par value are converted into shares without par value, the issued capital of the corporation attributable to the shares resulting from the conversion shall be equal to the aggregate par value of the shares converted.

par shares  
to no par  
shares

(3) Where the articles provide for the conversion of shares without par value into shares with par value, no such share shall be converted unless that part of the issued capital attributable to the shares being converted is equal to the aggregate par value of the shares resulting from the conversion.

no par  
shares to  
par shares

(4) Where, in accordance with the articles, shares without par value are converted into shares without par value, the issued capital shall remain unchanged.

no par  
shares to  
no par  
shares

(5) Where special shares of a class are converted into the same or another number of shares of another class or classes, whether special or common, the shares converted thereupon become the same in all respects as the shares of the class or classes respectively into which they are converted, and the number of shares of each class affected by the conversion is changed and the articles are amended accordingly. 1970, c. 25, s. 36.

of special  
shares

**37.**—(1) Where the only undertaking of a corporation is the business of investing the funds of the corporation, its articles may provide for the issuing of one or more classes of mutual fund shares that have attached thereto conditions requiring the corporation to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the shares, or fractions or parts thereof.

Surrender  
of mutual  
fund shares

Conditions  
and price

(2) Articles that provide for the issuing of mutual fund shares shall set out the conditions governing,

- (a) the surrender of mutual fund shares or any fractions or parts thereof; and
- (b) the determination of the price to be paid therefor and the manner and time of payment thereof. 1970, c. 25, s. 37.

Redemption,  
purchase or  
surrender  
while  
insolvent

**38.**—(1) A corporation shall not redeem or purchase special shares or accept mutual fund shares for surrender if the corporation is insolvent or if the redemption, purchase or surrender would render the corporation insolvent.

Cancellation  
on  
redemption,  
purchase or  
surrender

(2) Special shares that are redeemed or purchased by a corporation are thereby cancelled, and the authorized and issued capital of the corporation are thereby decreased and the articles are amended accordingly.

Idem:  
mutual  
funds

(3) Where mutual fund shares are accepted for surrender by a corporation, the shares are not thereby cancelled, and the board of directors may resell the shares at such time and price and on such terms as it determines, in which case the amount received from the sale shall form part of the surplus of the corporation. 1970, c. 25, s. 38.

Purchase  
of common  
shares: out  
of surplus

**39.**—(1) Where authorized in its articles and subject to any restrictions contained therein, a corporation may purchase any of its common shares out of surplus.

out of  
capital

(2) A corporation may purchase any of its common shares out of issued capital if the purchase is made,

- (a) for the purpose of eliminating fractions of shares; or
- (b) for the purpose of collecting or compromising indebtedness to the corporation.

while  
insolvent

(3) A corporation shall not purchase common shares under subsection 1 or 2 if the corporation is insolvent or if the purchase would render the corporation insolvent.

authoriza-  
tion

(4) No purchase of common shares shall be made under this section by a corporation unless the purchase is authorized by an express resolution of the board of directors.

method

(5) Where a corporation purchases its common shares under this section, the purchase shall be made,

- (a) by invitation addressed to all shareholders for tenders of shares and *pro rata* from the shares so tendered; or
- (b) from *bona fide* full-time employees and former employees of the corporation; or
- (c) where the corporation is offering its shares to the public, by purchase on the open market. 1970, c. 25, s. 39.



**40.**—(1) Where common shares are purchased by a corporation under subsection 1 of section 39, Cancellation or resale

- (a) if the articles so require, the shares shall be cancelled and thereupon the authorized and issued capital of the corporation are thereby decreased, and the articles are amended accordingly;
- (b) if the articles do not require the shares to be cancelled,
  - (i) the board of directors may at the time of the purchase cancel the shares, in which case the authorized and issued capital of the corporation are thereby decreased and the articles are amended accordingly; or
  - (ii) the board of directors may resell the shares at such time and price and on such terms as it determines, in which case the amount received from the sale shall form part of the surplus of the corporation.

(2) Common shares or fractions thereof purchased under subsection 2 of section 39 are thereby cancelled and the authorized and issued capital are thereby decreased and the articles are amended accordingly. 1970, c. 25, s. 40. Cancellation

**41.** Where a corporation purchases common shares under subsection 1 of section 39 or resells them under subclause ii of clause *b* of subsection 1 of section 40, the corporation shall be deemed to be an insider in respect of the purchase or resale, and sections 148 to 152 apply to the purchase or resale. 1970, c. 25, s. 41. Corporation insider re purchase and resale of own shares

**42.** An agreement for the purchase by a corporation of its common shares is not invalid or unenforceable because of the possibility that the corporation may not be able to comply with section 39, but such agreement is, Performance of agreement to purchase common shares

- (a) subject to subsection 2 of section 135, valid if performed; and
- (b) if not performed, valid and enforceable to the extent the corporation is able to purchase its common shares at the time for performance. 1970, c. 25, s. 42.

**43.**—(1) A corporation may accept from any shareholder a donation of any of its shares without any repayment of capital in respect thereof. Donation of shares

(2) Shares accepted under subsection 1 are not thereby cancelled, and the board of directors may sell the shares at such time and price and on such terms as it determines, in which case the amount received from the sale shall form part of the surplus of the corporation. 1970, c. 25, s. 43. Sale of donated shares



*Allotment, Issue and Transfer*

Issue of  
shares

**44.**—(1) In the absence of a provision to the contrary in the articles or by-laws of the corporation, shares may be allotted and issued at such times and in such manner and to such persons or class of persons as the directors determine.

Considera-  
tion for  
par shares

(2) Shares with par value shall not be allotted or issued except for a consideration at least equal to the product of the number of shares allotted or issued multiplied by the par value thereof.

Considera-  
tion for no  
par shares

(3) Subject to section 25, shares without par value shall not be allotted or issued except for such consideration as is fixed by the directors.

Fully-paid  
shares

(4) No share shall be issued until it is fully paid and a share is not fully paid until all the consideration therefor in cash, property or services, as determined under this section, has been received by the corporation.

Idem

(5) For the purposes of subsection 4 and paragraph 21 of subsection 2 of section 15, a document evidencing indebtedness does not constitute property and services shall be past services actually performed for the corporation, and the value of property or services shall be the value the directors determine by express resolution to be in all the circumstances of the transaction the fair equivalent of the cash value. 1970, c. 25, s. 44.

Commission  
on sale  
of shares

**45.**—(1) A corporation may provide by special by-law for the payment of commissions or allowing discounts to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in the corporation, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, but, except in the case of mining, gas or oil corporations or corporations at least 75 per cent of whose assets are of a wasting character, no such commission or discount shall exceed 25 per cent of the amount of the subscription price.

No  
unauthorized  
commissions

(2) Except as provided in subsection 1, no corporation shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares of the corporation or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the corporation or to the contract price of any work to be executed for the corporation, or is paid out of the nominal purchase money or contract price or otherwise. 1970, c. 25, s. 45.

Shares  
personal  
property

**46.** The shares of a corporation are personal property. 1970, c. 25, s. 46.

**47.**—(1) A corporation shall not impose restrictions on the transfer of shares except such restrictions as are authorized by the articles. Restrictions on transfer

(2) A corporation that has imposed restrictions on the transfer of its shares shall not offer its shares to the public unless the restrictions are necessary, No public offer if transfer restricted

(a) by or under any Act of Canada or Ontario as a condition to the obtaining, holding or renewal of authority to engage in any activity necessary to its undertaking; or

(b) for the purpose of achieving or preserving its status as a Canadian corporation for the purpose of any Act of Canada or Ontario.

(3) Except in the case of shares listed on a stock exchange recognized by the Commission, where the articles or by-laws so provide the corporation has a lien to the extent of the debt on the shares registered in the name of a shareholder who is indebted to the corporation. 1970, c. 25, s. 47. Lien for indebtedness

**48.**—(1) Except in the cases mentioned in this section, a corporation shall not be a shareholder of a corporation that is its holding corporation, and any allotment or transfer of shares of a corporation to its subsidiary corporation is void. Subsidiaries not to hold shares of holding corporations

(2) This section does not apply to a subsidiary holding shares as personal representative unless the holding corporation or a subsidiary thereof is beneficially interested under a trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. Application

(3) This section does not prevent a subsidiary that on the 30th day of April, 1954, held shares of its holding corporation from continuing to hold such shares, but, subject to subsection 2, the subsidiary has no right to vote at meetings of shareholders of the holding corporation or at meetings of any class of shareholders thereof. Exception

(4) Subject to subsection 2, subsections 1 and 3 apply in relation to a nominee for a corporation that is a subsidiary as if the references in subsections 1 and 3 to such a corporation included references to a nominee for it. 1970, c. 25, s. 48. Nominees

### *Share Certificates*

**49.**—(1) Every shareholder is entitled to a share certificate in respect of the shares held by him, signed by the proper officers in accordance with the corporation's by-laws in that regard, but the corporation is not bound to issue more than one share certificate in respect of a share or shares held jointly by several persons, and Share certificates

delivery of a share certificate to one of several joint shareholders is sufficient delivery to all.

Fee

(2) A corporation may charge a fee of not more than \$1 for every share certificate issued, except that, in the case of the allotment and issue of shares, no fee shall be charged. 1970, c. 25, s. 49.

Signing  
of share  
certificates

**50.** A share certificate shall be signed manually by at least one officer of the corporation or by or on behalf of a transfer agent or branch transfer agent of the corporation, and the corporation may by by-law provide that any additional signatures required on share certificates may be printed, engraved, lithographed or otherwise mechanically reproduced thereon, and in such event share certificates so signed are as valid as if they had been signed manually. 1970, c. 25, s. 50.

Contents  
of share  
certificates

**51.—**(1) Every share certificate shall state upon its face,

- (a) the name of the corporation and the words “Incorporated under the law of the Province of Ontario” or words of like effect;
- (b) the name of the person to whom the share is issued as holder; and
- (c) the number and class of shares represented thereby and whether the shares are with par value or without par value and, if with par value, the par value thereof.

Statements  
on share  
certificates

(2) A share certificate issued for a share of a class of special shares shall,

- (a) legibly state on the certificate or have attached thereto a legible statement of the preferences, rights, conditions, restrictions, prohibitions or limitations attaching to that class of shares; or
- (b) legibly state on the certificate that there are preferences, rights, conditions, restrictions, prohibitions or limitations attaching to that class and that a copy of the full text thereof is obtainable on demand and without fee from the corporation.

Production  
of  
preferences,  
etc.

(3) Where a share certificate contains a statement as provided in clause *b* of subsection 2, the corporation shall furnish to the shareholder on demand without fee a copy of the full text of the preferences, rights, conditions, restrictions, prohibitions and limitations attaching to the share.

Lien on  
shares

(4) Where the articles or by-laws provide that a corporation has a lien on shares as authorized by subsection 3 of section 47, the right of the corporation to the lien shall be noted conspicuously on every share certificate issued by the corporation.

(5) A share certificate for a share the transfer of which is restricted in accordance with the articles shall have the restriction noted conspicuously on the certificate. 1970, c. 25, s. 51. Transfer restricted

**52.** Where, as a result of a change in the authorized capital of a corporation, a person becomes entitled to a fraction of a share, he is not entitled to be registered on the records of the corporation in respect thereof or to receive a share certificate therefor, but he is entitled to receive a bearer fractional certificate in respect of such fraction, and, on presentation at the head office of the corporation or at a place designated by the corporation of bearer fractional certificates for fractions that together represent a whole share, a share certificate for a whole share shall be issued in exchange therefor, and sections 63 to 97 apply thereto. 1970, c. 25, s. 52. Fractional shares

#### BORROWING

**53.—**(1) When authorized by special by-law, the directors may, Borrowing powers

- (a) borrow money on the credit of the corporation; or
- (b) issue, sell or pledge debt obligations of the corporation; or
- (c) charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the corporation, including book debts, rights, powers, franchises and undertaking, to secure any debt obligations or any money borrowed, or other debt or liability of the corporation.

(2) Any by-law referred to in subsection 1 may, Contents of by-law

- (a) limit the amount to be borrowed as determined by the by-law; and
- (b) provide for the delegation by the directors of the powers conferred on them under the by-law to such directors or officers of the corporation and to such extent and manner as is set out in the by-law. 1970, c. 25, s. 53.

**54.** Nothing in this Act prohibits the issue of debt obligations in bearer form. 1970, c. 25, s. 54. Bearer debt obligations

**55.** A condition contained in a debt obligation or in an instrument for securing a debt obligation is not invalid by reason only that the debt obligation is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. 1970, c. 25, s. 55. Irredeemable debt obligation



Filing  
debt  
obligations

**56.**—(1) Where a corporation makes a charge, mortgage or other instrument of hypothecation or pledge to secure its debt obligations, the corporation shall, forthwith after the making thereof, file a duplicate original or certified copy of the instrument in the office of the Minister, but such filing may be made by any interested person.

Recovery  
of fee

(2) Where the filing is by an interested person under subsection 1, that person is entitled to recover from the corporation the amount of any prescribed fee paid by him on such filing.

Exception

R.S.O. 1970,  
c. 88

(3) Subsection 1 does not apply to a charge or mortgage filed with the Minister under *The Corporation Securities Registration Act*, or any other Act. 1970, c. 25, s. 56.

#### *Indenture Trustees*

Interpre-  
tation

**57.**—(1) In this section and in sections 58 to 62,

- (a) “trust indenture” means any deed, indenture or document howsoever designated, including any supplement or amendment thereto, by the terms of which a body corporate issues or guarantees debt obligations and in which a trustee is named as trustee for the holders of the debt obligations issued or guaranteed thereunder;
- (b) “trustee” means any person named as trustee under the terms of a trust indenture, whether or not the person is a trust company authorized to carry on business in Ontario.

Application  
of sections  
58 to 62

(2) This section and sections 58 to 62 apply to every body corporate, except corporations, offering their debt obligations to the public in Ontario under a trust indenture and to every corporation offering their debt obligations to the public under a trust indenture.

Resident  
trustee

(3) Every body corporate whose debt obligations are offered to the public in Ontario or issued under a trust indenture in Ontario shall have a trustee resident or authorized to do business in Ontario. 1970, c. 25, s. 57.

Statutory  
provisions  
in trust  
indentures

**58.**—(1) Trust indentures shall be deemed to contain the following provisions:

1. In the exercise of the rights, duties and obligations prescribed or conferred by the terms of the trust indenture, the trustee shall exercise that degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.
2. In the exercise of his rights, duties and obligations the trustee may, if he is acting in good faith, rely, as to the



truth of the statements and the accuracy of the opinions expressed therein, upon statutory declarations, opinions, reports or certificates furnished pursuant to any covenant, condition or other requirement of the trust indenture or required by the trustee to be furnished to him in the exercise of his rights and duties under the trust indenture where,

- (a) the statutory declarations, opinions, reports or certificates are furnished under subsection 1 of section 59 and they comply with subsections 2 and 3 thereof; and
- (b) the trustee examines the evidence furnished to him under section 59 in order to determine whether such evidence indicates compliance with the applicable requirements of the trust indenture.

3. The trustee shall be required to give to the holders of debt obligations issued under the trust indenture, within thirty days after the trustee becomes aware of the occurrence thereof, notice of every event of default arising under the trust indenture and continuing at the time the notice is given, unless the trustee in good faith determines that the withholding of such notice is in the best interests of the holders of the debt obligations and so advises the issuer in writing.

(2) A person shall not be appointed a trustee under a trust indenture if a material conflict of interest exists in the trustee's role as a fiduciary thereunder at the time of the execution and delivery of the said trust indenture but if, notwithstanding the provisions of this section, such a material conflict of interest exists, the validity and enforceability of the said trust indenture, the security created thereby and thereunder and the securities issued thereunder shall not be affected in any manner whatsoever by reason only that such material conflict of interest exists but such trustee shall, within ninety days after ascertaining that he has such material conflict of interest, either eliminate such material conflict of interest or resign from office, and where a material conflict of interest arises subsequently to the appointment of the trustee under a trust indenture, he shall, within ninety days after ascertaining that he has such material conflict of interest, either eliminate such material conflict of interest or resign from office. 1970, c. 25, s. 58.

Conflict of  
interest

**59.—**(1) The issuer or guarantor of debt obligations issued under the trust indenture shall furnish to the trustee evidence of compliance with every covenant, condition or other requirement

Evidence of  
compliance

specified in the trust indenture to be furnished to the trustee or required by the trustee to be furnished to him in the exercise of his rights and duties under the trust indenture relating to,

- (a) the certification and delivery of debt obligations under the trust indenture;
- (b) the release or release and substitution of property subject to any mortgage, charge, lien or other encumbrance created by the trust indenture;
- (c) the satisfaction and discharge of the trust indenture;
- (d) the issuing of additional debt obligations thereunder; and
- (e) any other action or step required or permitted to be taken by the issuer, guarantor or trustee under the trust indenture or as a result of any obligation imposed by the trust indenture.

Idem

(2) Evidence of compliance referred to in clauses *a*, *b*, *c* and *d* of subsection 1 shall consist of,

- (a) statutory declarations made by officers of the issuer or guarantor authorized by the trust indenture stating that the covenant, condition or other requirement has been complied with in accordance with the terms of the trust indenture;
- (b) an opinion of a solicitor that the covenant, condition or other requirement has been complied with in accordance with the terms of the trust indenture; and
- (c) in the case of a covenant, condition or other requirement compliance with which is subject to the review or examination by auditors or accountants, an opinion or report of the auditor of the issuer or guarantor or any accountant licensed under *The Public Accountancy Act*, in each case approved by the trustee, as to the accuracy or reliability of the statements required to be reviewed or examined and whether or not the statements have been made in accordance with the terms of the trust indenture.

R.S.O. 1970,  
c. 373

Idem

(3) Evidence of compliance referred to in clause *e* of subsection 1, where it arises under a covenant, condition or other requirement of the trust indenture, shall be in accordance with the report or opinion of any solicitor, auditor, accountant, engineer or appraiser or any other person whose qualifications give authority to a statement made by him in accordance with the trust indenture, but if such report or opinion is provided by a director, officer or employee of the issuer or guarantor it shall be in the form of a statutory declaration.

(4) Evidence of compliance referred to in clause *e* of subsection 1, where it is required by the trustee to be furnished to him in the exercise of his rights and duties under the trust indenture, shall be, so far as appropriate, in accordance with subsections 2 and 3. Idem

(5) The evidence required under subsections 2, 3 and 4 shall include, Idem

- (a) a statement by the person giving the evidence that he has read and is familiar with the provisions of the trust indenture under which it is required;
- (b) a brief statement of the nature and scope of the examination or investigation upon which the statements or opinions contained in the evidence are based;
- (c) a statement that, in the belief of the person giving the evidence, he has made such examination or investigation as is necessary to enable him to express an opinion whether the provisions of the trust indenture under which it is required have been complied with or satisfied; and
- (d) a statement whether in the opinion of such person the provisions of the trust indenture have been complied with or satisfied.

(6) The issuer or guarantor of debt obligations under the trust indenture shall furnish the trustee annually, and at any other time if the trustee so requires, a certificate that the issuer or guarantor has complied with all covenants, conditions or other requirements contained in the trust indenture that would, with the elapse of time or otherwise, constitute an event of default thereunder. Certificate of issuer or guarantor

(7) Nothing in this section prevents the inclusion in a trust indenture of provisions requiring evidence of compliance with covenants, conditions or other requirements in addition to those specified in this section. 1970, c. 25, s. 59. Additional provisions

**60.** Except as provided in paragraphs 1 and 2 of subsection 1 of section 58, a trust indenture to which section 58 applies shall not contain any provision relieving the trustee from liability arising thereunder and any such provision that is contained in a trust indenture is ineffective. 1970, c. 25, s. 60. Exculpatory clauses

**61.** A trustee under a trust indenture to which section 58 applies and any related person to such trustee shall not be appointed a receiver or receiver and manager or liquidator of the assets or undertaking of the issuer or guarantor of the debt obligations under the trust indenture. 1970, c. 25, s. 61. Trustees under trust indentures not to be appointed receivers, etc.

Applica-  
tion of  
sections  
58-60

**62.** Sections 58, 59 and 60 apply to any trust indenture entered into after the 1st day of January, 1971, or entered into before the 1st day of January, 1971 and under which debt obligations are outstanding or may be issued on the 1st day of January, 1971. 1970, c. 25, s. 62, *amended*.

#### INVESTMENT SECURITIES

##### *General*

Interpre-  
tation

**63.—**(1) In this section and in sections 64 to 97,

- (a) “adverse claim” includes a claim that a transfer is or would be unauthorized or wrongful or that a particular adverse person is the owner of or has an interest in the security;
- (b) “appropriate person”, when used to refer to a person endorsing a security, means,
  - (i) the person specified by the security or by special endorsement to be entitled to the security,
  - (ii) where the person so specified is described as a trustee or other fiduciary but is no longer serving in that capacity and notwithstanding that a successor has been appointed or qualified,
    - a. where only one person is so described, that person or his successor, or
    - b. where more than one person is so described, the remaining persons,
  - (iii) where the person so specified is an individual and is without capacity to act by virtue of death, incompetence, infancy or otherwise, his executor, administrator, committee, guardian or like fiduciary,
  - (iv) where the security or endorsement specified more than one person as joint tenants or with right of survivorship and by reason of death all cannot sign, the survivor or survivors,
  - (v) a person having the power to sign under the applicable law or controlling instrument, or
  - (vi) to the extent any of the foregoing persons may act through an agent, his authorized agent;
- (c) “bearer form” when applied to a security means a security that runs to bearer according to its terms and not by reason of any endorsement;
- (d) “broker” means a person engaged for all or part of his time in the business of buying and selling securities, who holds registration as a broker or in a similar capacity under *The Securities Act*, or who is recognized for the



purpose of sections 64 to 97 by the Commission as a broker, and who in the transaction concerned acts for or buys a security from or sells a security to a customer;

- (e) "clearing corporation" means a body corporate recognized as a clearing corporation by the Commission;
- (f) "custodian" means a bank to which the *Bank Act* (Canada) applies, a trust company registered under *The Loan and Trust Corporations Act* or such other body corporate as may be recognized by the Commission as a custodian and that is acting as custodian for a clearing corporation; 1966-67,  
c. 87 (Can.)  
R.S.O. 1970,  
c. 254
- (g) "proper form" means regular on its face with regard to all formal matters;
- (h) "registered form" when applied to a security means a security that is not in bearer form and that specifies a person entitled to the security or the rights it evidences;
- (i) "security" means a security as defined in section 1 and includes a warrant.

(2) Sections 64 to 97 do not apply to a promissory note or bill of exchange to which the *Bills of Exchange Act* (Canada) applies. 1970, c. 25, s. 63. Application  
of ss. 64-97  
R.S.C. 1952,  
c. 15

**64.** A lien upon a security in favour of an issuer thereof is valid against a purchaser only if the right of the issuer to such lien is noted conspicuously on the security. 1970, c. 25, s. 64. Issuer's  
liens

**65.—**(1) In this section, "overissue" means the issue of securities in excess of the amount which the issuer has corporate power to issue. Overissue

(2) The provisions of this Act that validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue, but, Idem

- (a) if an identical security that does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase and deliver such a security to him against surrender of the security, if any, that he holds; or
- (b) if a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand. 1970, c. 25, s. 65.



Evidence

**66.** In any action on a security,

- (a) unless specifically denied in the pleadings, each signature on the security or in a necessary endorsement is admitted;
- (b) where the effectiveness of a signature is put in issue, the burden of establishing its effectiveness is on the party claiming under the signature, but the signature is *prima facie* proof that it is genuine and authorized;
- (c) where signatures are admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defence or a defect going to the validity of the security; and
- (d) after it is shown that a defence or defect exists the plaintiff has the burden of establishing that he or some person under whom he claims is a person against whom the defence or defect is ineffective. 1970, c. 25, s. 66.

Selection  
of laws

**67.**—(1) The validity of a security and the rights and duties with respect to registration of transfer of an issuer that is a corporation or a body corporate incorporated under the laws of Ontario are governed by this Act and the laws of Ontario.

Idem

(2) The validity of a security and the rights and duties with respect to registration of transfer of an issuer that is a body corporate other than a corporation or a body corporate incorporated under the laws of Ontario, are governed by the law, including the conflict of law rules, of the jurisdiction in which the body corporate was incorporated. 1970, c. 25, s. 67.

Form of  
transfer

**68.**—(1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or endorsed to him in blank or to bearer.

Default in  
payment

(2) Where the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price,

- (a) of any security accepted by the buyer; and
- (b) if a security is not accepted by the buyer and its resale would be unduly burdensome or there is no readily available market. 1970, c. 25, s. 68.

*Rights and Liabilities of Issuer,  
Registrar and Transfer Agent*

Issuer

**69.**—(1) The obligations and defences of an issuer apply to a body corporate that,

- (a) places or authorizes the placing of its name on a security, otherwise than as an authenticating trustee, registrar or

transfer agent, to evidence that it represents a share, participation or other interest in its property or in an enterprise or to evidence its duty to perform an obligation evidenced by the security;

- (b) directly or indirectly creates fractional interests in its rights or property which fractional interests are evidenced by securities; or
- (c) becomes responsible for or in place of any other person described as an issuer in this section.

(2) The obligations and defences of an issuer apply to a guarantor of a security to the extent of his guaranty whether or not his obligation is noted on the security.

(3) The person on whose behalf a register of transfers is maintained is an issuer for the purposes of the registration of a transfer under sections 92 to 95. 1970, c. 25, s. 69.

Guarantor

Person maintaining transfer books

**70.**—(1) A purchaser for value shall be deemed to have notice of the terms of a security including those stated on the security and those made part of the security by reference to another instrument, indenture or document or to a statute, ordinance, rule, regulation, order or other written law to the extent that the terms so referred to do not conflict with the stated terms, except that he shall be deemed not to have such notice of a defect going to the validity of the security even though the security expressly states that a person accepting it admits such notice.

Notice of terms of security

(2) Except as otherwise provided in the case of certain unauthorized signatures on issue, lack of genuineness of a security is a complete defence even against a purchaser for value and without notice.

Defence of issuer

(3) All other defences of the issuer including non-delivery and conditional delivery of the security are ineffective against a purchaser for value who has taken without notice of the particular defence.

Idem

(4) Nothing in this section shall be construed to affect the right of a party to a “when, as and if issued” or a “when distributed” contract to cancel the contract in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement under which such security is to be issued or distributed. 1970, c. 25, s. 70.

Idem

**71.**—(1) After an act or event that creates a right to immediate performance of the principal obligation evidenced by the security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or any defence of the issuer,

Notice of defect

- (a) if the act or event is one requiring the payment of money or the delivery of securities or both on presentation or surrender of the security and such funds or securities are available on the date set for payment or exchange and he takes the security more than one year after that date; and
- (b) if the act or event is not one to which clause *a* applies and he takes the security more than two years after the date set for surrender or presentation or the date on which such performance became due.

Revoked  
call for  
redemption  
excepted

(2) Subsection 1 does not apply to a call for redemption that has been revoked. 1970, c. 25, s. 71.

Restriction  
on transfer

**72.**—(1) Unless noted conspicuously on the security, a restriction on transfer imposed by the issuer even though otherwise lawful is ineffective except against a person with actual knowledge of it.

Exception  
for  
securities  
of former  
private  
companies  
R.S.O. 1970,  
c. 89

(2) Where a corporation was incorporated as a private company under *The Corporations Act*, or any predecessor thereof, before the 1st day of January, 1971, the words “private company” appearing conspicuously on the face of its securities issued before the 1st day of January, 1971 shall be deemed to be notice of its restriction on the transfer of the securities for the purposes of subsection 1. 1970, c. 25, s. 72, *amended*.

Unautho-  
rized  
signatures  
on issue

**73.** An unauthorized signature placed on a security prior to or in the course of issue is ineffective except that the signature is effective in favour of a purchaser for value and without notice of the lack of authority if the signing has been done by,

- (a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security or of similar securities or their immediate preparation for signing; or
- (b) an employee of the issuer, entrusted with responsibility for handling of the security. 1970, c. 25, s. 73.

Completion  
of blanks

**74.**—(1) Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect,

- (a) any person may complete it by filling in the blanks as authorized; and
- (b) even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness.

Improper  
alteration

(2) A complete security that has been improperly altered, even though fraudulently, remains enforceable but only according to its original terms. 1970, c. 25, s. 74.

**75.**—(1) Subject to sections 106 and 112, the issuer or the indenture trustee may treat the registered holder as the person entitled to receive notice of and to vote at meetings of the security holders and to receive any payment in respect of the security and otherwise to exercise all the rights and powers of an owner. Effect of registration

(2) Nothing in sections 64 and 97 shall be construed to affect the liability of the registered owner of a security for calls, assessments or similar liabilities. Idem 1970, c. 25, s. 75.

**76.**—(1) A body corporate placing its signature upon a security as authenticating trustee, registrar or transfer agent warrants to a purchaser for value without notice of the particular defect that, Warranties on issue

- (a) the security is genuine and in proper form;
- (b) its own participation in the issue of the security is within its capacity and within the scope of the authorization received by it from the issuer; and
- (c) it has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person by so placing his signature does not assume responsibility for the validity of the security in other respects. Idem 1970, c. 25, s. 76.

#### *Rights and Liabilities of Purchaser and Seller*

**77.**—(1) Upon delivery of a security, the purchaser acquires the rights in the security that his transferor had or had actual authority to convey except that a purchaser who has himself been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later purchaser for value in good faith who was without notice of any adverse claim. Rights acquired by purchasers

(2) A purchaser for value in good faith and without notice of any adverse claim in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim. bona fide purchaser

(3) A purchaser of a limited interest acquires rights only to the extent of the interest purchased. Limited interest 1970, c. 25, s. 77.

**78.**—(1) A purchaser, including a broker for the seller or buyer, of a security is charged with notice of adverse claims if, Notice of adverse claims

- (a) the security whether in bearer or registered form has been endorsed “for collection” or “for surrender” or for some other purpose not involving transfer; or



- (b) the security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on a security shall not be deemed such a statement.

Idem

(2) The fact that the purchaser, including a broker for the seller or the buyer, has notice that the security is held for a third person or is registered in the name of or endorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute notice of adverse claims, but if the purchaser has knowledge that the proceeds are being used or that the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

Idem

(3) An act or event that creates a right to immediate performance of the principal obligation evidenced by the security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange does not of itself constitute any notice of adverse claims except in the case of a purchase,

- (a) after one year from any date set for such presentment or surrender for redemption or exchange; or
- (b) after six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date. 1970, c. 25, s. 78.

Warranties  
on  
presentment

**79.**—(1) A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment or exchange, but a purchaser for value without notice of adverse claims who receives a new, reissued or reregistered security on registration of transfer warrants only that he has no knowledge of any unauthorized signature in a necessary endorsement.

Warranties  
on transfer

(2) A person by transferring a security to a purchaser for value warrants only that,

- (a) his transfer is effective and rightful;
- (b) the security is genuine and has not been materially altered; and
- (c) he knows no fact that might impair the validity of the security.

Warranties  
of inter-  
mediary

(3) Where a security is delivered by an intermediary known by the transferee to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against such delivery, the intermediary by such delivery warrants only his own good faith and authority even though he has purchased or made advances against the claim to be collected against the delivery, but a broker is not an intermediary within the meaning of this subsection.



(4) A pledgee or other holder for security who redelivers the security received, or after payment and on order of the debtor delivers that security to a third person, makes only the warranties of an intermediary under subsection 3. Warranties of pledgee

(5) A broker gives to his customer and to the issuer and a purchaser the warranties provided in this section and has the rights and privileges of a purchaser under this section and the warranties of and in favour of the broker acting as an agent are in addition to applicable warranties given by and in favour of his customer. 1970, c. 25, s. 79. Warranties of broker

**80.** Where a security in registered form has been delivered to a purchaser without a necessary endorsement, he may become a purchaser for value in good faith and without notice of any adverse claim only as of the time the endorsement is supplied, but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary endorsement supplied. 1970, c. 25, s. 80. Absence of endorsement

**81.—**(1) An endorsement of a security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or when the signature of such person is written without more upon the back of the security. Endorsement

(2) An endorsement of a security may be, Idem

(a) in blank, including to bearer; or

(b) a special endorsement, specifying the person to whom the security is to be transferred or who has the power to transfer it,

and a holder may convert an endorsement in blank into a special endorsement.

(3) Unless otherwise agreed, the endorser by his endorsement assumes no obligation that the security will be honoured by the issuer. Obligations of endorser

(4) An endorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement. Partial endorsement

(5) Whether the person signing is appropriate shall be determined as of the date of signing and an endorsement by such person does not become unauthorized for the purposes of this Act by virtue of any subsequent change of circumstances. Appropriate person

(6) Failure of a fiduciary to comply with a controlling instrument or with the law applicable to the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, does not render his endorsement unauthorized for the purposes of this Act. 1970, c. 25, s. 81. Improper endorsement by fiduciary

Delivery  
necessary

**82.** An endorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which it appears, or if the endorsement is on a separate document until the delivery of both the document and the security. 1970, c. 25, s. 82.

Effect of  
unautho-  
rized  
endorsement

**83.** Unless the owner has ratified an unauthorized endorsement or is otherwise precluded from asserting its ineffectiveness,

- (a) he may assert its ineffectiveness against the issuer or any purchaser other than a purchaser for value and without notice of adverse claims who has in good faith received a new, reissued or reregistered security on registration of transfer; and
- (b) an issuer who registers the transfer of a security upon the unauthorized endorsement is subject to liability for improper registration. 1970, c. 25, s. 83.

Guarantee  
of signature

**84.—**(1) Any person guaranteeing a signature of an endorser of a security warrants that at the time of signing,

- (a) the signature was genuine;
- (b) the signer was an appropriate person to endorse; and
- (c) the signer had legal capacity to sign,

but the guarantor does not otherwise warrant the rightfulness of the particular transfer.

Guarantee  
of  
endorsement

(2) Any person may guarantee an endorsement of a security and by so doing warrants not only the signature but also the rightfulness of the particular transfer in all respects.

Idem

(3) No issuer may require a guarantee of endorsement as a condition to registration of transfer.

Liability of  
guarantor

(4) The warranties referred to in subsections 1 and 2 are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to such person for any loss resulting from breach of the warranties. 1970, c. 25, s. 84.

What  
constitutes  
delivery

**85.—**(1) Delivery to a purchaser occurs when,

- (a) he or a person designated by him acquires possession of a security;
- (b) his broker acquires possession of a security specially endorsed or issued in the name of the purchaser;
- (c) his broker sends him confirmation of the purchase and also by book entry or otherwise identifies a specific security in the broker's possession as belonging to the purchaser;

- (d) with respect to an identified security to be delivered while still in the possession of a third person, when that person acknowledges that he holds for the purchaser; or
- (e) appropriate entries in the records of a clearing corporation are made under section 91.

(2) The purchaser is the owner of a security held for him by his broker, but is not the holder except as specified in clauses *b*, *c* and *e* of subsection 1, but where a security is part of a fungible bulk the purchaser is the owner of a proportionate property interest in the fungible bulk. Idem

(3) Notice of an adverse claim received by the broker or by the purchaser after the broker takes delivery as a holder for value is not effective either as to the broker or as to the purchaser, but as between the broker and the purchaser, the purchaser may demand delivery of an equivalent security as to which no notice of an adverse claim has been received. Notice of adverse claim after delivery 1970, c. 25, s. 85.

**86.**—(1) Unless otherwise agreed where a sale of a security is made on a stock exchange recognized for the purposes of sections 64 to 97 by the Commission or otherwise through brokers, Duty of seller to deliver

- (a) the selling customer fulfills his duty to deliver when he places such a security in the possession of the selling broker or of a person designated by the broker or, if requested, causes an acknowledgment to be made to the selling broker that it is held for him; and
- (b) the selling broker including a correspondent broker acting for a selling customer fulfills his duty to deliver by placing the security or a like security in the possession of the buying broker or a person designated by him or by effecting clearance of the sale in accordance with the rules of the recognized stock exchange on which the transaction took place.

(2) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract of purchase is not fulfilled until he places the security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgment to be made to the purchaser that it is held for him. Idem

(3) Subsection 2 applies to a sale to a broker purchasing on his own account unless the sale is made on a recognized stock exchange. Idem 1970, c. 25, s. 86.

**87.**—(1) Any person against whom the transfer of a security is wrongful for any reason, including his incapacity, may against anyone else except a purchaser for value in good faith and without Action for wrongful transfer

notice of any adverse claim reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or have damages.

Idem

(2) If the transfer is wrongful because of an unauthorized endorsement the owner may also reclaim or obtain possession of the security even from a purchaser for value in good faith and without notice of any adverse claim if the ineffectiveness of the purported endorsement can be asserted against him under the provisions of this Act relating to unauthorized endorsements.

Specific performance and injunction

(3) The right to obtain or reclaim possession of a security may be specially enforced by specific performance or its transfer enjoined. 1970, c. 25, s. 87.

Transferor's duty to provide requisites for registration of transfer

**88.**—(1) Unless otherwise agreed, the transferor shall on due demand supply his purchaser with any proof of his authority to transfer or with any other requisite that may be necessary to obtain registration of the transfer of the security, but if the transfer is not for value a transferor need not do so unless the purchaser furnishes the necessary expenses.

Effect of failure

(2) Failure to comply with a demand made under subsection 1 within a reasonable time gives the purchaser the right to reject or rescind the transfer. 1970, c. 25, s. 88.

Transfer by agent in good faith not conversion

**89.** An agent or bailee who in good faith, including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities, has received securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion or for participation in breach of fiduciary duty although the principal has no right to dispose of them. 1970, c. 25, s. 89.

Contract for sale

**90.** A contract for the sale of securities is not enforceable by way of action or defence unless,

- (a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price;
- (b) delivery of the security has been accepted or payment has been made, but the contract is enforceable under this provision only to the extent of such delivery or payment;
- (c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under clause *a* has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within a reasonable time after its receipt; or



- (d) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price. 1970, c. 25, s. 90.

- 91.—(1) If a security,
- (a) is in the custody of a clearing corporation or of a custodian or nominee of either, subject to the instructions of the clearing corporation;
  - (b) is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian or a nominee of either; and
  - (c) is shown on the account of a transferor or pledgor in the records of the clearing corporation,

Transfer through clearing corporation

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries in the records of the clearing corporation, reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.

(2) Under this section entries may be in respect of like securities or interests therein as part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

Interests in fungible bulk

(3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly endorsed in blank representing the amount of the obligation or the number of shares or rights transferred or pledged.

Constructive endorsement and delivery

(4) If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party.

Idem

(5) A transferee or pledgee under this section is a holder.

Holder

(6) A transfer or pledge under this section does not constitute a registration of transfer under sections 92 to 96.

Not registration

(7) That entries made in the records of the clearing corporation as provided in subsection 1 are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing corporation to any person adversely affected thereby. 1970, c. 25, s. 91.

Error in records



*Registration*

Duty of  
issuer to  
register  
transfer

**92.**—(1) Where a security in registered form is presented to the issuer with a request to register a transfer, the issuer is under a duty to register the transfer as requested if,

- (a) the security is endorsed by the appropriate person or persons;
- (b) reasonable assurance is given that those endorsements are genuine and effective;
- (c) the issuer has no notice of an adverse claim;
- (d) any applicable law relating to the collection of taxes has been complied with; and
- (e) the transfer is not contrary to applicable restrictions or is not of a share in respect of which the corporation is entitled to a lien and exercises its right to refuse registration.

Liability  
for undue  
delay

(2) Where an issuer is under a duty to register a transfer of a security, the issuer is also liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer. 1970, c. 25, s. 92.

Assurances  
required  
by issuer

**93.**—(1) For the purpose of obtaining reasonable assurance that each necessary endorsement required by section 81 is genuine and effective, the issuer may require a guarantee of the signature of the person endorsing or, where such guarantee is lacking,

- (a) where the endorsement is by an agent, appropriate assurance of authority to sign;
- (b) where the endorsement is by fiduciary, or a successor on whom title or control vests on the death of the holder, appropriate evidence of appointment or incumbency;
- (c) where there is more than one fiduciary or successor, reasonable assurance that all who are required to sign have done so; and
- (d) where the endorsement is by a person not covered by a person mentioned in this section, assurance appropriate to the case equivalent as nearly as may be to those required by this section.

Sufficiency  
of guarantee

(2) A “guarantee of the signature” in subsection 1 means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible, and the issuer may adopt standards with respect to responsibility if such standards are not manifestly unreasonable.

(3) For the purposes of subsection 1, “appropriate evidence of appointment or incumbency” means,

Appropriate evidence of appointment or incumbency

- (a) if the fiduciary or successor claims by virtue of a grant of probate or letters of administration or other instrument issued or purporting to be issued by a court or other judicial authority in any jurisdiction, production of the same or a notarial copy thereof or extract therefrom or a certificate of such grant under the seal of such court or other authority without any proof of the authenticity of such seal or other proof whatever and deposit of a copy thereof;
- (b) if the fiduciary or successor claims by virtue of the laws of any jurisdiction in which any transmission or vesting of title or control takes place without a grant of probate or letters of administration or other court or judicial action, production and deposit of proof thereof in accordance with the laws of such jurisdiction and reasonable evidence of such laws; or
- (c) if the net value of the estate of the deceased holder is less than \$1,500 or if the market value of the securities is less than \$300, proof thereof to the reasonable satisfaction of the issuer,

together with, in any such event, production and deposit by one or more of the fiduciaries or successors of a sworn statement showing the nature of the transmission or vesting of title or control, as the case may be.

(4) The issuer is not charged with notice of the contents of any document obtained for the purposes of subsection 3 except to the extent that the contents relate directly to the appointment or incumbency. 1970, c. 25, s. 93.

Other contents not notice

**94.**—(1) An issuer to whom a security is presented for registration has notice of an adverse claim if,

Notice to issuer of adverse claims

- (a) the issuer receives written notice of the adverse claim evidenced by an order or judgment of a court of competent jurisdiction and the notice is received at a time and in a manner that affords the issuer a reasonable opportunity to act on it before the issuance of a new, reissued or reregistered security and the notice identifies the registered owner, the claimant and the issue of which the security is a part, and provides an address for communications directed to the claimant; or
- (b) the issuer is given written notice by the registered owner that the security is lost, apparently destroyed or wrongfully taken.

Idem

(2) An issuer shall be deemed not to have notice of an adverse claim otherwise than as provided in subsection 1.

Registration  
after  
notice

(3) The issuer may register a transfer where he has notice of an adverse claim if he has given notice to both the registered owner and the claimant by registered mail to the address provided by them for the purpose that the security has been presented for registration by a named person and that the transfer will be registered unless prior to the expiration of thirty days from the date of mailing the notification there is filed with the issuer,

- (a) an appropriate restraining order, injunction or other process issued from a court of competent jurisdiction; or
- (b) an indemnity bond sufficient in the issuer's opinion to protect the issuer and any transfer agent, registrar or other agent of the issuer from any loss which it or they may suffer by complying with the adverse claim. 1970, c. 25, s. 94.

Liability  
of issuer

**95.**—(1) The issuer is not liable to the owner or any other person suffering loss as a result of the registration of a transfer of a security if,

- (a) there were on or with the security the necessary endorsements; and
- (b) the issuer had not notice of adverse claims or, having had notice thereof, proceeded to register the transfer in accordance with subsection 3 of section 94.

Idem

(2) Where an issuer has registered a transfer of a security to a person not entitled to it, the issuer on demand shall deliver a like security to the true owner unless,

- (a) the registration was pursuant to subsection 1;
- (b) the owner is precluded from asserting any claim for registering the transfer under subsection 1 of section 96; or
- (c) such delivery would result in overissue, in which case the issuer's liability is governed by section 65. 1970, c. 25, s. 95.

Loss, etc.,  
securities

**96.**—(1) Where a security has been lost, apparently destroyed or wrongfully taken and the owner fails to notify the issuer of that fact in writing before the issuer registers a transfer of the security, the owner is precluded from asserting against the issuer any claim for registering the transfer under section 95 or any claim to a new security under this section.

Replacing  
lost, etc.,  
securities

(2) Where the owner of a security claims that the security has been lost, apparently destroyed or wrongfully taken, the issuer shall issue a new security in place of the original security if the owner,

- (a) so requests before the issuer has notice that the security has been acquired by a purchaser for value without notice of an adverse claim;
- (b) files with the issuer an indemnity bond sufficient in the issuer's opinion to protect the issuer and any transfer agent, registrar or other agent of the issuer from any loss that it or they may suffer by complying with the request to issue a new security; and
- (c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of the new security, a purchaser for value without notice of an adverse claim of the original security presents it for registration of transfer, the issuer shall register the transfer unless registration would result in overissue in which event the issuer's liability is governed by section 65.

Rights of  
*bona fide*  
purchaser

(4) In addition to any rights on the indemnity bond, the issuer may recover the new security from the person to whom it was issued or any person taking under him except a purchaser for value without notice of an adverse claim. 1970, c. 25, s. 96.

Rights of  
issuer

**97.**—(1) A person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities is under a duty to exercise good faith and due diligence in performing his functions.

Duty of  
agents for  
issuer

(2) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent. 1970, c. 25, s. 97.

Notice to  
agents for  
issuer

SHAREHOLDERS

*Rights*

**98.**—(1) Where a person is shown on the records of a corporation as holding a share as a personal representative, the receipt by such person is a valid and binding discharge to the corporation for any payment made in respect of the share whether notice of any trust has been given to the corporation or not, and the corporation is not bound to see to the application of the money paid to him.

Dealings  
by corpora-  
tion with  
personal  
representa-  
tives

(2) Where shares are purchased by a corporation under subsection 1 of section 39 or subsection 2 of section 100 or accepted by a corporation under subsection 3 of section 38 or section 43 and are not thereby cancelled, no person is entitled to receive notice of or to vote at meetings of shareholders or to receive any payment in respect of the shares whether by way of dividend or otherwise until such shares are resold. 1970, c. 25, s. 98.

Corporation  
not a  
shareholder  
of own  
shares



Representative actions on behalf of corporation

**99.**—(1) Subject to subsection 2, a shareholder of a corporation may maintain an action in a representative capacity for himself and all other shareholders of the corporation suing for and on behalf of the corporation to enforce any right, duty or obligation owed to the corporation under this Act or under any other statute or rule of law or equity that could be enforced by the corporation itself, or to obtain damages for any breach of any such right, duty or obligation.

Leave

(2) An action under subsection 1 shall not be commenced until the shareholder has obtained an order of the court permitting the shareholder to commence the action.

Application for order to commence action

(3) A shareholder may, upon at least seven days notice to the corporation, apply to the court for an order referred to in subsection 2, and, if the court is satisfied that,

- (a) the shareholder was a shareholder of the corporation at the time of the transaction or other event giving rise to the cause of action;
- (b) the shareholder has made reasonable efforts to cause the corporation to commence or prosecute diligently the action on its own behalf; and
- (c) the shareholder is acting in good faith and it is *prima facie* in the interests of the corporation or its shareholders that the action be commenced,

the court may make the order upon such terms as the court thinks fit, except that the order shall not require the shareholder to give security for costs.

Application for order for interim costs

(4) At any time or from time to time while an action commenced under this section is pending, the plaintiff may apply to the court for an order for the payment to the plaintiff by the corporation of reasonable interim costs, including solicitor's and counsel fees and disbursements, for which interim costs the plaintiff shall be accountable to the corporation if the action is dismissed with costs on final disposition at the trial or on appeal.

Trial and judgment

(5) An action commenced under this section shall be tried by the court and its judgment or order in the cause, unless the action is dismissed with costs, may include a provision that the reasonable costs of the action are payable to the plaintiff by the corporation or other defendants taxed as between a solicitor and his own client.

Discontinuance and settlement

(6) An action commenced under this section shall not be discontinued, settled or dismissed for want of prosecution without the approval of the court and, if the court determines that the interests of the shareholders or any class thereof may be substantially affected by such discontinuance, settlement or dismissal,



the court, in its discretion, may direct that notice in manner, form and content satisfactory to the court shall be given, at the expense of the corporation or any other party to the action as the court directs, to the shareholders or class thereof whose interests the court determines will be so affected. 1970, c. 25, s. 99.

**100.**—(1) If, at a meeting of shareholders or of any class of shareholders of a corporation that is not offering its shares to the public, Rights of dissenting shareholders

- (a) a resolution passed by the directors authorizing the sale, lease, exchange or other disposition of the undertaking of the corporation or any part thereof as an entirety or substantially as an entirety is confirmed with or without variation by the shareholders;
- (b) a resolution passed by the directors authorizing an amendment to the articles to delete therefrom a provision restricting the transfer of the shares of the corporation or of any class thereof is confirmed with or without variation by the shareholders; or
- (c) a resolution approving an agreement for the amalgamation of the corporation with one or more other corporations is confirmed by the shareholders,

any shareholder who has voted against the confirmation of the resolution may within ten days after the date of the meeting give notice in writing to the corporation requiring it to purchase his shares.

(2) Within ninety days from the date of the completion of the sale or disposition or the issue of the certificate of amendment or amalgamation, as the case may be, the corporation, or amalgamated corporation, as the case may be, shall purchase the shares of every shareholder who has given notice under subsection 1, and every such shareholder shall sell his shares to the corporation. Corporation bound to purchase shares

(3) The corporation shall not purchase any shares under subsection 2 if it is insolvent or if the purchase would render it insolvent. Saving

(4) The price and terms of the purchase of such shares shall be as may be agreed upon by the corporation and the dissenting shareholder, but, if they fail to agree, the price and terms shall be as determined by the court on the application of the dissenting shareholder. Price of shares

(5) Any shares purchased under subsection 2 shall not be cancelled by reason only of such purchase and the board of directors may resell the shares at such time and price and on such terms as it determines, in which case the amount received from the sale shall form part of the surplus of the corporation. Sale of shares

Where  
sale not  
completed

(6) If the sale or disposition is not completed or the certificate of amendment or amalgamation is not issued, the rights of the dissenting shareholder under this section cease and the corporation shall not purchase the shares of such shareholder under this section. 1970, c. 25, s. 100.

Requisition  
for by-law  
or  
resolution

**101.**—(1) The persons holding equity shares carrying at least 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding may requisition the directors to call a meeting of the directors for the purpose of passing any by-law or resolution that may properly be passed at a meeting of the directors duly called, constituted and held for that purpose.

Form of  
requisition

(2) The requisition shall set out the by-law or resolution, as the case may be, that is required to be passed at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation, and may consist of several documents in like form, each signed by one or more requisitionists.

Meeting of  
directors

(3) Upon deposit of the requisition, the directors shall forthwith call a meeting of the directors for the purpose of passing the by-law or resolution, as the case may be, set out in the requisition.

Meeting  
of  
shareholders

(4) Where the directors do not within twenty-one days from the date of the deposit of the requisition,

(a) call and hold such a meeting and pass such a by-law or resolution; and

(b) if the by-law or resolution requires confirmation at a general meeting of the shareholders, call a general meeting of the shareholders for the purpose of confirming the by-law or resolution,

any of the requisitionists may call a general meeting of the shareholders for the purpose of passing such by-law or resolution, and the meeting shall be held within sixty days from the date of the deposit of the requisition.

Notice

(5) A meeting of the shareholders called under subsection 4 shall be called as nearly as possible in the same manner as meetings of shareholders are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting.

Validity of  
by-law or  
resolution

(6) Where a by-law or resolution is passed at a meeting of the shareholders called under subsection 4, either as set out in the requisition or as varied at the meeting, it is as valid and effective as if it had been passed at a meeting of the directors duly called, constituted and held for that purpose and confirmed at a meeting of the shareholders duly called, constituted and held for that

purpose, and, if the resolution or by-law is passed by at least two-thirds of the votes cast at the meeting of the shareholders called under subsection 4, it shall be deemed to be a special resolution or special by-law, as the case may be, for the purposes of this Act.

(7) The corporation shall,

Repayment  
of expenses

- (a) reimburse the requisitionists for any reasonable expenses incurred by them by reason of the failure of the directors to act in accordance with subsections 3 and 4; and
- (b) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such of the directors as were in default, an amount equal to the amount the requisitionists were reimbursed,

unless, at the meeting called under subsection 4, the shareholders, by a majority of the votes cast, reject the reimbursement of the requisitionists.

(8) Where a by-law or resolution in respect of which a meeting is required by requisition under this section is not passed at the meeting, no requisition for a meeting in respect of a similar by-law or resolution shall be made for a period of at least two years. 1970, c. 25, s. 101, *amended*.

New  
requisition  
on same  
subject

**102.—**(1) On the requisition in writing of the persons holding equity shares carrying at least 5 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding, the directors shall,

Circulation  
of share-  
holders'  
resolutions,  
etc.

- (a) give to the shareholders entitled to notice of the next meeting of shareholders notice of any resolution that may properly be moved and is intended to be moved at that meeting; or
- (b) circulate to the shareholders entitled to vote at the next meeting of shareholders a statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution or with respect to the business to be dealt with at that meeting.

(2) The notice or statement or both, as the case may be, shall be given or circulated by sending a copy thereof to each shareholder entitled thereto in the same manner and at the same time as that prescribed by this Act, the articles or the by-laws, for the sending of notice of meetings of shareholders.

Notice

(3) Where it is not practicable to send the notice or statement or both at the same time as the notice of the meeting is sent, the notice or statement or both shall be sent as soon as practicable thereafter.

Idem

Deposit of  
requisition,  
etc.

(4) The directors are not bound under this section to give notice of any resolution or to circulate any statement unless,

- (a) the requisition, signed by the requisitionists, is deposited at the head office of the corporation,
  - (i) in the case of a requisition requiring notice of a resolution to be given, not less than twenty-one days before the meeting where the corporation is offering its securities to the public and not less than ten days before the meeting where the corporation is not offering its securities to the public,
  - (ii) in the case of a requisition requiring a statement to be circulated, not less than fourteen days before the meeting where the corporation is offering its securities to the public and not less than seven days before the meeting where the corporation is not offering its securities to the public; and
- (b) there is deposited with the requisition a sum reasonably sufficient to meet the expenses of the corporation in giving effect thereto.

Where  
directors  
not bound  
to circulate  
statement

(5) The directors are not bound under this section to circulate any statement if, on the application of the corporation or any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter, and on any such application the court may order the costs of the corporation to be paid in whole or in part by the requisitionists notwithstanding that they are not parties to the application.

Where no  
liability

(6) No corporation or a director, officer or employee thereof or person acting on its behalf, except a requisitionist, is liable in damages or otherwise by reason only of the giving of a notice or the circulation of a statement, or both, in compliance with this section.

Duty to  
deal with  
requisitioned  
matter

(7) Notwithstanding anything in the by-laws of the corporation, where the requisitionists have complied with this section, the resolution, if any, mentioned in the requisition shall be dealt with at the meeting to which the requisition relates.

Repayment  
of expenses

(8) The corporation shall pay to the requisitionists the sum deposited under clause *b* of subsection 4 unless at the meeting to which the requisition relates the shareholders by a majority of the votes cast reject the repayment to the requisitionists. 1970, c. 25, s. 102.

### *Liabilities*

Liability  
on decrease  
of issued  
capital

**103.**—(1) Where the issued capital of a corporation is decreased by an amendment to the articles, each person who was a shareholder on the effective date of the amendment is individually liable to the creditors of the corporation for the debts due on



that date to an amount not exceeding the amount of the repayment to him.

(2) A person is not liable under subsection 1 unless, Limitation  
of liability

(a) the corporation has been sued for the debt within six months after the effective date of the amendment and execution has been returned unsatisfied in whole or in part; and

(b) he is sued for the debt in a court of competent jurisdiction within two years from the effective date of the amendment.

(3) After execution has been so returned, the amount due on Idem the execution, not exceeding the amount of the repayment to the person, is the amount recoverable against such person.

(4) Where it is made to appear that there are numerous Class  
actions shareholders who may be liable under this section, the court of competent jurisdiction may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined.

(5) No person holding shares in the capacity of a personal representative and registered on the records of the corporation as a shareholder and therein described as representing in such capacity a named estate, person or trust is personally liable under this section, but the estate, person or trust is subject to all liabilities imposed by this section 1970, c. 25, s. 103. Shareholder  
holding  
shares in  
fiduciary  
capacity

**104.** A shareholder of a corporation as such is not answerable or responsible for any act, default, obligation or liability of the corporation, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the corporation. 1970, c. 25, s. 104. Share-  
holder's  
liability  
limited

### *Meetings*

**105.**—(1) Subject to subsections 2 and 3, the meetings of the Place of  
meetings shareholders shall be held at the place where the head office of the corporation is located.

(2) Where the by-laws of the corporation so provide, the Exception meetings of the shareholders may be held at any place within Ontario.

(3) Where the articles of the corporation so provide, the Idem meetings of the shareholders may be held at one or more places outside Ontario specified therein. 1970, c. 25, s. 105.



Share-  
holders'  
meetings

**106.**—(1) Subject to subsection 2 and in the absence of other provisions in that behalf in the articles or by-laws of the corporation,

- (a) notice of the time and place for holding a meeting of the shareholders shall be given to each person who is entitled to notice of meetings and who on the record date for notice appears on the records of the corporation as a shareholder by sending the notice by prepaid mail to his latest address as shown on the records of the corporation,
  - (i) in the case of a corporation that is offering its securities to the public, twenty-one days or more before the date of the meeting, and
  - (ii) in the case of a corporation that is not offering its securities to the public, ten days or more before the date of the meeting,

but in no case more than fifty days before the date of the meeting;

- (b) all questions proposed for the consideration of the shareholders at a meeting of shareholders shall be determined by the majority of the votes cast, and the chairman presiding at the meeting has a second or casting vote in case of an equality of votes;
- (c) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place;
- (d) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman;
- (e) unless a poll is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

Notice

(2) The articles or by-laws of the corporation shall not provide for fewer than,

- (a) twenty-one days notice in the case of a corporation that is offering its securities to the public; or

- (b) ten days notice in the case of a corporation that is not offering its securities to the public,

for meetings of shareholders but in no case shall notice be given more than fifty days before the date of the meeting and the articles or by-laws shall not provide that notice may be given otherwise than individually.

(3) If a poll is demanded, it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman may direct. 1970, c. 25, s. 106. Poll

**107.** A corporation shall hold an annual meeting of its shareholders not later than eighteen months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting and at such meeting any shareholder shall have an opportunity to raise any matter relevant to the affairs and business of the corporation. 1970, c. 25, s. 107. Annual meetings

**108.** The directors may at any time call a general meeting of the shareholders for the transaction of any business, the general nature of which is specified in the notice calling the meeting. 1970, c. 25, s. 108. General meetings

**109.**—(1) The persons holding equity shares carrying at least 5 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding may requisition the directors to call a general meeting of the shareholders for any purpose that is connected with the affairs of the corporation and that is not inconsistent with this Act. Requisition for shareholders' meeting

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation and may consist of several documents in like form, each signed by one or more requisitionists. Requisition

(3) Upon deposit of the requisition, the directors shall forthwith call a general meeting of the shareholders for the transaction of the business stated in the requisition. Duty of directors to call meeting

(4) If the directors do not within thirty days from the date of the deposit of the requisition call and hold the meeting, any of the requisitionists may call the meeting, which shall be held within sixty days from the date of the deposit of the requisition. Where requisitionists may call meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of shareholders are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting. Calling of meeting

Repayment  
of expenses

(6) The corporation shall,

- (a) reimburse the requisitionists for any reasonable expenses incurred by them by reason of the action taken by them under subsection 4; and
- (b) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such of the directors as were in default, an amount equal to the amount the requisitionists were reimbursed,

unless, at the meeting, the shareholders by a majority of the votes cast reject the reimbursement of the requisitionists. 1970, c. 25, s. 109.

Requisition  
by  
court order

**110.** Notwithstanding section 109, upon application by a shareholder of a corporation, the court, if satisfied that the application is made in good faith and that it is *prima facie* in the interests of the corporation or its shareholders that the meeting be held on requisition, may make an order, upon such terms as to security for the costs of holding the meeting or otherwise as to the court seem fit, requiring the directors to call a general meeting of the shareholders for any purpose that is connected with the affairs of the corporation and that is not inconsistent with this Act. 1970, c. 25, s. 110.

Court may  
direct  
method of  
holding  
meetings

**111.** If for any reason it is impracticable to call a meeting of shareholders of a corporation in any manner in which meetings of shareholders may be called or to conduct the meeting in the manner prescribed by this Act, the articles or by-laws, the court may, on the application of a director or a shareholder who would be entitled to vote at the meeting, order a meeting to be called, held and conducted in such manner as the court thinks fit, and any meeting called, held and conducted in accordance with the order shall for all purposes be deemed to be a meeting of shareholders of the corporation duly called, held and conducted. 1970, c. 25, s. 111.

Record  
dates

**112.**—(1) The by-laws may provide for the fixing in advance of a date as the record date,

- (a) for the determination of the shareholders entitled to notice of meetings of the shareholders, which record date for notice shall not be more than fifty days before the date of the meeting and not fewer than the minimum number of days for notice of the meeting and, where no such record date for notice is fixed by by-law, the record date for notice shall be at the close of business on the day next preceding the day on which notice is given or sent; and

- (b) for the determination of the shareholders entitled to vote at meetings of the shareholders, which record date for voting shall be not more than forty-eight hours, excluding Saturdays and holidays, before the date of the meeting and, where no such record date for voting is fixed by by-law, the record date for voting shall be at the time of the taking of the vote.

(2) The holder of each common share and, unless the articles condition, restrict, limit or prohibit the right to vote, the holder of each special share who, on the record date for voting, appears on the records of the corporation as a shareholder is entitled to one vote for each share held by him at all meetings of the shareholders of the corporation, or such greater number of votes for each share respecting such matters as the articles provide. 1970, c. 25, s. 112.

**113.**—(1) Where a person holds shares as a personal representative, that person or his proxy is the person entitled to vote at all meetings of shareholders in respect of the shares so held by him.

(2) Where a person mortgages or hypothecates his shares, that person or his proxy is the person entitled to vote at all meetings of shareholders in respect of such shares unless, in the instrument creating the mortgage or hypothec, he has expressly empowered the person holding the mortgage or hypothec to vote in respect of such shares, in which case, subject to the articles, such holder or his proxy is the person entitled to vote in respect of the shares. 1970, c. 25, s. 113.

**114.** Where two or more persons hold the same share or shares jointly, any one of such persons present at a meeting of shareholders has the right in the absence of the other or others to vote in respect of such share or shares, but, if more than one of such persons are present or represented by proxy and vote, they shall vote together as one on the share or shares jointly held by them. 1970, c. 25, s. 114.

**115.** In this section and in sections 116 to 121,

- (a) “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;
- (b) “information circular” means the circular referred to in subsection 1 of section 118;
- (c) “proxy” means a completed and executed form of proxy by means of which a shareholder has appointed a person as his nominee to attend and act for him and on his behalf at a meeting of shareholders;



- (d) "solicit" and "solicitation" include,
- (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
  - (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
  - (iii) the sending or delivery of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and
  - (iv) the sending or delivery of a form of proxy to a shareholder under section 117,
- but do not include,
- (v) the sending or delivery of a form of proxy to a shareholder in response to an unsolicited request made by him or on his behalf, or
  - (vi) the performance by any person of ministerial acts or professional services on behalf of a person soliciting a proxy. 1970, c. 25, s. 115.

Proxies

**116.**—(1) Every shareholder, including a shareholder that is a body corporate, entitled to vote at a meeting of shareholders may by means of a proxy appoint a person, who need not be a shareholder, as his nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

Execution  
and  
termination

(2) A proxy shall be executed by the shareholder or his attorney authorized in writing or, if the shareholder is a body corporate, under its corporate seal or by an officer or attorney thereof duly authorized, and ceases to be valid one year from its date.

Contents

(3) In addition to the requirements, where applicable, of section 120, a proxy shall contain the date thereof and the appointment and name of the nominee and may contain a revocation of a former proxy and restrictions, limitations or instructions as to the manner in which the shares in respect of which the proxy is given are to be voted or that may be necessary to comply with the laws of any jurisdiction in which the shares of the corporation are listed on a stock exchange or a restriction or limitation as to the number of shares in respect of which the proxy is given.

Revocation

(4) In addition to revocation in any other manner permitted by law, a proxy may be revoked by an instrument in writing executed by the shareholder or by his attorney authorized in writing or, if the shareholder is a body corporate, under its corporate seal or by an officer or attorney thereof duly authorized, and deposited either at the head office of the corporation at



any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used or with the chairman of such meeting on the day of the meeting, or adjournment thereof, and upon either of such deposits the proxy is revoked.

(5) The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the corporation or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting or in the information circular relating thereto. 1970, c. 25, s. 116.

Time limit  
for deposit

**117.** Subject to section 119, the management of a corporation shall, concurrently with or prior to giving notice of a meeting of shareholders of the corporation, send by prepaid mail to each shareholder who is entitled to vote at such meeting at his latest address as shown on the records of the corporation a form of proxy that complies with section 120 for use at the meeting. 1970, c. 25, s. 117.

Mandatory  
solicitation  
of proxies

**118.**—(1) Subject to subsection 2 and section 119, no person shall solicit proxies unless,

Information  
circular

- (a) in the case of a solicitation by or on behalf of the management of a corporation, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each shareholder of the corporation whose proxy is solicited at his latest address as shown on the records of the corporation; or
- (b) in the case of any other solicitation, the person making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each shareholder of the corporation whose proxy is solicited.

(2) Subsection 1 does not apply to,

Application  
of subs. 1

- (a) any solicitation, otherwise than by or on behalf of the management of a corporation, where the total number of shareholders whose proxies are solicited is not more than fifteen;
- (b) any solicitation by a person made pursuant to section 80 of *The Securities Act*; and
- (c) any solicitation by a person in respect of shares of which he is the beneficial owner.

R.S.O. 1970,  
c. 426

(3) Section 256 applies to a solicitation that is subject to this section by means of a form of proxy, information circular or other communication. 1970, c. 25, s. 118.

Untrue  
solicitations  
an offence

Where  
ss. 117  
118 (1)  
apply  
Exemption  
orders

**119.**—(1) Section 117 and subsection 1 of section 118 apply only to a corporation that is offering its securities to the public.

(2) Upon the application of any interested person, the Commission may, if satisfied that in the circumstances of the particular case there is adequate justification for so doing, make an order, on such terms and conditions as seem to it just and expedient, exempting, in whole or in part, any person from the requirements of section 117 or from the requirements of subsection 1 of section 118. 1970, c. 25, s. 119.

Special  
form of  
proxy

**120.** Where section 117 or 118 applies to a solicitation of proxies,

- (a) the form of proxy sent to a shareholder by a person soliciting proxies,
  - (i) shall indicate in bold-face type or other conspicuous manner whether or not the proxy is solicited by or on behalf of the management of the corporation, and
  - (ii) shall provide a specifically designated blank space for dating the form of proxy;
- (b) the form of proxy shall provide means whereby the person whose proxy is solicited is afforded an opportunity to specify that the shares registered in his name shall be voted by the nominee in favour of or against, in accordance with such person's choice, each matter or group of related matters identified therein or in the information circular as intended to be acted upon, other than the election of directors and the appointment of auditors, but a proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by such means if the form of proxy or the information circular states in bold-face type or other conspicuous manner how it is intended to vote the shares represented by the proxy in each such case;
- (c) a proxy may confer discretionary authority with respect to,
  - (i) amendments or variations to matters identified in the notice of meeting, or
  - (ii) other matters that may properly come before the meeting,but only if,
  - (iii) the person by whom or on whose behalf the solicitation is made is not aware a reasonable time prior to the time the solicitation is made that any such amendments, variations or other matters are to be presented for action at the meeting, and

- (iv) a specific statement is made in the information circular or in the form of proxy that the proxy is conferring such discretionary authority;
- (d) no proxy shall confer authority,
  - (i) to vote for the election of any person as a director of the corporation unless a *bona fide* proposed nominee for such election is named in the information circular, or
  - (ii) to vote at any meeting other than the meeting specified in the notice of meeting or any adjournment thereof;
- (e) the information circular or form of proxy shall state that the shares represented by the proxy will be voted and that, where the person whose proxy is solicited specifies a choice with respect to any matter to be acted upon under clause *b*, the shares shall, subject to section 121, be voted in accordance with the specifications so made;
- (f) the information circular or form of proxy shall indicate in bold-face type or other conspicuous manner that the shareholder has the right to appoint a person to attend and act for him and on his behalf at the meeting other than the person, if any, designated in the form of proxy, and shall contain instructions as to the manner in which the shareholder may exercise such right; and
- (g) if the form of proxy contains a designation of a named person as nominee, means shall be provided whereby the shareholder may designate in a form of proxy some other person as his nominee for the purpose of subsection 1 of section 116. 1970, c. 25, s. 120

**121.** If the votes represented at a meeting by proxies requiring that they be voted in respect of a particular matter or group of matters total to the knowledge of the chairman of that meeting less than 5 per cent of all of the voting rights attaching to all of the shares entitled to be voted and be represented at the meeting, the chairman has the right not to conduct a vote by way of ballot on any such matter or group of matters unless a poll is demanded at the meeting in which case the vote shall be by way of ballot. 1970, c. 25, s. 121.

Where  
vote by  
ballot  
not  
required

#### DIRECTORS AND OFFICERS

##### *Directors*

**122.**—(1) Every corporation shall have a board of directors however designated.

Board of  
directors

(2) The board of directors shall consist of a fixed number of directors.

Com-  
position

- (a) in the case of a corporation that is not offering its securities to the public, of at least one; and
- (b) in the case of a corporation that is offering its securities to the public, of not fewer than three, of whom at least two shall not be officers or employees of the corporation or of any affiliate of the corporation. 1970, c. 25, s. 122.

First  
directors

**123.**—(1) Each of the persons named as first directors in the articles of a corporation is a director of the corporation until replaced by a person duly elected or appointed in his stead.

Idem

(2) The first directors of a corporation have all the powers and duties and are subject to all the liabilities of directors. 1970, c. 25, s. 123.

Change in  
number of  
directors

**124.**—(1) A corporation may by special by-law increase or, subject to subsection 2 of section 122, decrease the number of its directors as set out in its articles.

Filing of  
by-law

(2) The corporation shall file with the Minister a certified copy of the by-law within ten days after the by-law has been confirmed by the shareholders.

Validity

(3) Failure to comply with subsection 2 does not affect the validity of the by-law. 1970, c. 25, s. 124.

Age of  
directors

**125.**—(1) No person under twenty-one years of age shall be a director of a corporation.

Qualifica-  
tions

(2) No undischarged bankrupt or mentally incompetent person shall be a director, and, if a director becomes a bankrupt or a mentally incompetent person, he thereupon ceases to be a director.

Consent

(3) A person who is elected or appointed a director is not a director unless,

- (a) he was present at the meeting when he was elected or appointed and did not refuse at the meeting to act as director;
- (b) where he was not present at the meeting when he was elected or appointed, he consented to act as director in writing before his election or appointment or within ten days thereafter.

Idem

(4) For the purposes of subsection 3, a person who is elected or appointed as director and refuses under clause *a* of subsection 3 or fails to consent under clause *b* of subsection 3 shall be deemed not to have been elected or appointed as a director. 1970, c. 25, s. 125.

**126.**—(1) The directors shall be elected by the shareholders in general meeting, and the election shall be by ballot or in such other manner as the by-laws of the corporation prescribe. Election of directors

(2) The election of directors shall take place yearly, or at such other interval not exceeding five years as is provided by the articles, and all the directors then in office shall retire, but, if qualified, are eligible for re-election. Idem

(3) If an election of directors is not held within the prescribed period, the directors continue in office until their successors are elected. Continuance in office

(4) The articles may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year. 1970, c. 25, s. 126. Rotation of directors

**127.** The articles or a special by-law of a corporation may provide that, Cumulative voting for directors

- (a) every shareholder entitled to vote at an election of directors has the right to cast thereat a number of votes equal to the number of votes attached to the shares held by him multiplied by the number of directors to be elected, and he may cast all such votes in favour of one candidate or distribute them among the candidates in such manner as he sees fit; and
- (b) where he has voted for more than one candidate without specifying the distribution of his votes among such candidates, he shall be deemed to have divided his votes equally among the candidates for whom he voted. 1970, c. 25, s. 127.

**128.**—(1) Subject to subsection 2, where there is a quorum of directors in office and a vacancy occurs in the board, the directors remaining in office may appoint a qualified person to fill the vacancy for the remainder of the term. Vacancies

(2) Where part of the board of directors has been elected by the holders of the shares of a special class of shares as provided in clause *d* of subsection 1 of section 27, and a vacancy occurs in that part of the board, the remaining directors or director, if any, in that part of the board may appoint a qualified person to fill the vacancy for the remainder of the term, and, if there is no such remaining director, the holders of that class of shares at a general meeting thereof that may be called by any holder of shares of that class may elect a qualified person to fill the vacancy for the remainder of the term. Idem, where elected by class of shareholders



Idem,  
where no  
quorum

(3) When there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the shareholders to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any shareholder. 1970, c. 25, s. 128.

Quorum of  
directors

**129.** Unless the articles or by-laws otherwise provide, a majority of the board of directors constitutes a quorum, but in no case shall a quorum be less than two-fifths of the board of directors or two directors, whichever is the greater. 1970, c. 25, s. 129.

Place of  
meetings

**130.**—(1) Subject to subsection 2, the meetings of the board of directors and the executive committee shall be held at the place where the head office of the corporation is located.

Exception

(2) Where the by-laws of the corporation so provide, the meetings of the board of directors and of the executive committee may be held at any place within or outside Ontario. 1970, c. 25, s. 130.

Calling  
meetings  
of directors

**131.**—(1) In addition to any other provision in the articles or by-laws of a corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting.

Notice

(2) In the absence of any other provision in that behalf in the by-laws of the corporation, notice of the time and place for the holding of the meeting called under subsection 1 shall be given to every director of the corporation by sending the notice by prepaid mail ten days or more before the date of the meeting to his latest address as shown on the records of the corporation. 1970, c. 25, s. 131.

Duties

**132.**—(1) The board of directors shall manage or supervise the management of the affairs and business of the corporation.

Conduct of  
business

(2) Subject to section 133 and subsection 1 of section 23, no business of a corporation shall be transacted by its directors except at a meeting of directors at which a quorum of the board is present.

Idem

(3) Where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. 1970, c. 25, s. 132.

Executive  
committee

**133.**—(1) Where the number of directors of a corporation is more than six, and if authorized by a special by-law, the directors may elect from among their number an executive committee

consisting of not fewer than three and may delegate to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

(2) An executive committee may fix its quorum, which shall be not less than a majority of its members. 1970, c. 25, s. 133.

Disclosure  
by directors  
of interests  
in contracts

**134.**—(1) Every director of a corporation who has, directly or indirectly, any interest in any contract or transaction to which the corporation is or is to be a party, other than a contract or transaction limited solely to his remuneration as a director, officer or employee, shall declare his interest in such contract or transaction at a meeting of the directors of the corporation and shall at that time disclose the nature and extent of such interest including, as to any contract or transaction involving the purchase and sale of assets by or to the corporation or a subsidiary thereof, the cost of the assets to the purchaser and the cost thereof to the seller if acquired by the seller within five years before the date of the contract or transaction, to the extent to which such information is within his knowledge or control.

(2) Subsection 1 does not require the disclosure of any interest in any contract or transaction unless the interest and the contract or transaction are both material.

Interest  
to be  
material

(3) The declaration required by this section shall be made at the meeting of the directors at which the contract or transaction is first considered or, if the director is not at the date of the meeting interested in the contract or transaction, at the next meeting of the directors held after he becomes so interested, and, where the director becomes interested in a contract or transaction after it is entered into, the declaration shall be made at the first meeting of the directors held after he becomes so interested.

When  
declaration  
of interest  
to be made

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the corporation or to its shareholders for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the corporation, is not voidable by reason only of the director's interest therein.

Effect of  
declaration

(5) Notwithstanding anything in this section, a director, if he was acting honestly and in good faith, is not accountable to the corporation or to its shareholders for any profit or gain realized from any such contract or transaction by reason only of his holding the office of director, and the contract or transaction, if it

Confirma-  
tion by  
shareholders

was in the best interest of the corporation at the time it was entered into, is not by reason only of the director's interest therein voidable,

- (a) if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for that purpose; and
- (b) if the nature and extent of the director's interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting or in the information circular required by section 118. 1970, c. 25, s. 134.

Liability  
of directors  
re purchase  
of shares

**135.**—(1) Where any shares of a corporation are acquired by it by redemption, purchase or acceptance for surrender in contravention of this Act or the articles, the directors who voted in favour of or consented to the resolution authorizing the redemption, purchase or acceptance for surrender are jointly and severally liable to the corporation to the extent of the amount paid for the acquisition of the shares.

Application  
to court

(2) Where any shares of a corporation are acquired by it by redemption, purchase or surrender in contravention of this Act or the articles,

- (a) any shareholder of the corporation; or
- (b) where the acquisition is in contravention of subsection 1 of section 38, subsection 3 of section 39 or section 100 any creditor of the corporation who was a creditor at the time of the acquisition,

may apply to the court within two years of the acquisition, and the court may, if it considers it to be just and equitable under the circumstances, make an order making any shareholder whose shares were acquired liable to the corporation, jointly and severally with the directors, to the extent of the amount paid to him for his shares. 1970, c. 25, s. 135.

Liability  
of directors  
re dividends

**136.** Where any dividend is declared and paid in contravention of section 153 or 154,

- (a) the directors who voted in favour of or consented to the resolution authorizing the declaration of the dividend are jointly and severally liable to the corporation to the extent of the amount of the dividend so declared and paid or such part thereof as renders the corporation insolvent or diminishes its capital; and
- (b) any shareholder of the corporation or any creditor of the corporation who was a creditor at the time of the declaration of the dividend may apply to the court

within two years of the declaration, and the court may, if it considers it to be just and equitable under the circumstances, make an order making any shareholder to whom the dividend is paid jointly and severally liable with the directors to the extent of the amount of the dividend paid to him. 1970, c. 25, s. 136.

**137.**—(1) A director who was present at a meeting of the board of directors or an executive committee thereof when, Consent of director at meeting

- (a) the redemption, purchase or acceptance for surrender of shares of the corporation is authorized;
- (b) the declaration and payment of a dividend is authorized; or
- (c) a loan or guarantee mentioned in section 146 is authorized,

shall be deemed to have consented thereto unless,

- (d) his dissent is entered in the minutes of the meeting;
- (e) he files his written dissent with the person acting as secretary of the meeting before its adjournment; or
- (f) he delivers or sends his dissent by registered mail to the corporation immediately after the adjournment of the meeting,

and within seven days after complying with clause *d*, *e* or *f* he sends a copy of his dissent by registered mail to the Minister.

(2) A director who voted in favour of a matter referred to in subsection 1 is not entitled to dissent under subsection 1. Idem

(3) A director who was not present at a meeting of the board of directors or any executive committee thereof when, Consent of director not at meeting

- (a) the redemption, purchase or acceptance for surrender of shares of the corporation is authorized;
- (b) the declaration and payment of a dividend is authorized; or
- (c) a loan or guarantee mentioned in section 146 is authorized,

shall be deemed to have consented thereto unless,

- (d) he delivers or sends to the corporation by registered mail his dissent; or
- (e) he causes his dissent to be filed with the minutes of the meeting,

within seven days after he becomes aware of the authorization referred to in clause *a*, *b* or *c* and unless, within seven days after complying with clause *d* or *e*, he sends a copy of his dissent by registered mail to the Minister. 1970, c. 25, s. 137.



Exception  
to liability

**138.**—(1) A director is not liable under section 135, 136 or 146 if, in the circumstances, he discharged his duty to the corporation in accordance with section 144.

Liability  
not  
excluded

(2) The liability imposed by this Act upon a director is in addition to any other liability that is by law imposed upon him. 1970, c. 25, s. 138.

Liability of  
directors  
for wages  
R.S.O. 1970,  
cc. 263, 147

**139.**—(1) The directors of a corporation are jointly and severally liable to the employees of the corporation to whom *The Master and Servant Act* applies for all debts that become due while they are directors for services performed for the corporation, not exceeding six months wages, and for the vacation pay accrued for not more than twelve months under *The Employment Standards Act*, and the regulations thereunder or under any collective agreement made by the corporation.

Limitation  
of liability

(2) A director is liable under subsection 1,

(a) only if,

(i) the corporation has been sued for the debt within six months after it has become due and execution against the corporation has been returned unsatisfied in whole or in part, or

(ii) the corporation has within that period gone into liquidation or has been ordered to be wound up or has made an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) has been made against it and, in any such case, the claim for the debt has been proved; and

R.S.C. 1952,  
c. 14

(b) he is sued for the debt while he is a director or within two years after he ceases to be a director.

Idem

(3) After execution has been so returned against the corporation, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

Rights of  
director  
who pays  
the debt

(4) If the claim for the debt has been proved in liquidation or winding-up proceedings or under the *Bankruptcy Act* (Canada), a director who pays the debt is entitled to any preference that the creditor paid would have been entitled to or, if a judgment has been recovered for the debt, the director is entitled to an assignment of the judgment. 1970, c. 25, s. 139.

Removal  
of directors

**140.** The shareholders may, by resolution passed by a majority of the votes cast at a general meeting duly called for that purpose, remove any director before the expiration of his term of office and may, by a majority of the votes cast at the meeting, elect any person in his stead for the remainder of his term, but, where the directors have been elected by the method of voting



provided by section 127, no director shall be removed from office where the votes cast against the resolution for his removal would, if cumulatively voted at an election of the full board of directors, be sufficient to elect one or more directors. 1970, c. 25, s. 140.

### *Officers*

**141.**—(1) A corporation shall have a president and a secretary and such other officers as are provided for by by-law or by resolution of the directors. Officers

(2) In the absence of other provisions in that behalf in the articles or by-laws, the directors, Election and appointment

- (a) shall elect the president from among themselves;
- (b) shall appoint or elect the secretary; and
- (c) may appoint or elect one or more vice-presidents or other officers. 1970, c. 25, s. 141.

**142.** A corporation may by special by-law, Chairman of the board

- (a) provide for the election or appointment by the directors from among themselves of a chairman of the board;
- (b) define the duties of the chairman;
- (c) assign to the chairman all or any of the duties of the president or of any other officer of the corporation,

and, if the by-law assigns to the chairman any of the duties of the president, it shall also fix and prescribe the duties of the president. 1970, c. 25, s. 142.

**143.** Unless the articles or by-laws otherwise provide, no person shall be the president or chairman of the board of a corporation unless he is a director of the corporation but no other officer need be a director. 1970, c. 25, s. 143. Qualifications of chairman and president

### *General*

**144.** Every director and officer of a corporation shall exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the corporation, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. 1970, c. 25, s. 144. Standards of care, etc., of directors

**145.** An act done by a director or by an officer is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification. 1970, c. 25, s. 145. Validity of acts of directors and officers

Liability  
of directors  
and officers

**146.** Those directors and officers of a corporation who authorize or consent to a loan in contravention of section 17 are, until repayment of the loan, jointly and severally liable to the corporation and to its creditors for the debts of the corporation then existing or thereafter contracted to the amount of the loan with interest at the rate of 6 per cent a year. 1970, c. 25, s. 146.

Indemnifi-  
cation of  
directors

**147.**—(1) Subject to subsection 2, the by-laws of a corporation may provide that every director and officer of the corporation and his heirs, executors, administrators and other legal personal representatives may from time to time be indemnified and saved harmless by the corporation from and against,

- (a) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him for or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and
- (b) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the corporation.

Idem

(2) No director or officer of a corporation shall be indemnified by the corporation in respect of any liability, costs, charges or expenses that he sustains or incurs in or about any action, suit or other proceeding as a result of which he is adjudged to be in breach of any duty or responsibility imposed upon him under this Act or under any other statute unless, in an action brought against him in his capacity as director or officer, he has achieved complete or substantial success as a defendant.

Insurance

(3) A corporation may purchase and maintain insurance for the benefit of a director or officer thereof, except insurance against a liability, cost, charge or expense of the director or officer incurred as a result of a contravention of section 144. 1970, c. 25, s. 147.

#### INSIDERS

Insiders  
to report  
holdings  
to O.S.C.

**148.**—(1) A person who becomes an insider of a corporation shall, within ten days after the end of the month in which he becomes an insider, file with the Commission a report, as of the day on which he became an insider, of his direct or indirect beneficial ownership of or control or direction over securities of the corporation.

Idem

(2) If a person who is an insider of a corporation but has no direct or indirect beneficial ownership of or control or direction over securities of the corporation acquires direct or indirect beneficial ownership of or control or direction over any such securities, he shall, within ten days after the end of the month in which he acquired such direct or indirect beneficial ownership or

such control or direction, file with the Commission a report, as of the date of such acquisition, of his direct or indirect beneficial ownership of or control or direction over securities of the corporation.

(3) A person who has filed or is required to file a report under subsection 1 or 2 and whose direct or indirect beneficial ownership of or control or direction over securities of the corporation changes from that shown or required to be shown in such report or in the last report filed by him under this section shall, within ten days following the end of the month in which such changes takes place, if he was an insider of the corporation at any time during such month, file with the Commission a report of his direct or indirect beneficial ownership of or control or direction over securities of the corporation at the end of such month and the change or changes therein that occurred during the month and giving such details of each transaction as may be required by the regulations. 1970, c. 25, s. 148.

Subsequent  
reports of  
changes

**149.**—(1) All reports filed with the Commission under section 148 shall, upon payment of the prescribed fee, be open to public inspection at the offices of the Commission during normal business hours of the Commission, and any person may make extracts from such reports.

Reports  
may be  
inspected

(2) The Commission shall summarize in or as part of a monthly periodical for distribution to the public on payment of the prescribed fee therefor the information contained in the reports so filed. 1970, c. 25, s. 149.

Publication  
of infor-  
mation  
contained  
in reports

**150.**—(1) Every insider of a corporation or associate or affiliate of such insider who, in connection with a transaction relating to the securities of the corporation, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of such securities, is liable to compensate any person for any direct loss suffered by such person as a result of the transaction, unless the information was known or ought reasonably to have been known to such person at the time of the transaction, and is also accountable to the corporation for any direct benefit or advantage received or receivable by such insider, associate or affiliate, as the case may be, as a result of the transaction.

Liability  
of insiders

(2) An action to enforce any right created by subsection 1 may be commenced only within two years after the date of completion of the transaction that gave rise to the cause of action. 1970, c. 25, s. 150.

Limitation  
period

Order to  
commence  
action

**151.**—(1) Upon application by any person who was at the time of a transaction referred to in subsection 1 of section 150 or is at the time of the application an owner of securities of the corporation, the court may, if satisfied that,

- (a) such person has reasonable grounds for believing that the corporation has a cause of action under section 150; and
- (b) either,
  - (i) the corporation has refused or failed to commence an action under section 150 within sixty days after receipt of a written request from such person so to do, or
  - (ii) the corporation has failed to prosecute diligently an action commenced by it under section 150,

make an order, upon such terms as to security for costs and otherwise as to the court seems fit, requiring the Commission to commence or continue an action in the name of and on behalf of the corporation to enforce the liability created by section 150.

Notice to  
corporation  
and O.S.C.

(2) The applicant under subsection 1 shall give to the corporation and the Commission notice of his application, and the corporation and the Commission have the right to appear and be heard thereon.

Order to  
require  
corporation  
to  
co-operate

(3) Every order made under subsection 1 shall provide that the corporation shall co-operate fully with the Commission in the institution and prosecution of the action and shall make available to the Commission all records, documents and other material or information known to the corporation or reasonably ascertainable by the corporation relevant to the action. 1970, c. 25, s. 151.

Exception

**152.** Upon the application of any interested person, the Commission may, if satisfied upon the circumstances of the particular case that there is adequate justification for so doing, make an order upon such terms and conditions as seem to the Commission to be expedient exempting in whole or in part any person from the requirements of section 148. 1970, c. 25, s. 152.

#### DIVIDENDS

Power to  
declare  
dividends

**153.**—(1) Subject to the articles of the corporation, the directors may declare and the corporation may pay dividends on its issued shares.

Manner of  
payment

(2) A dividend may be paid in cash or in property not exceeding in value the amount of the dividend.

When  
dividend  
not to be  
declared

(3) The directors shall not declare and the corporation shall not pay any dividend when the corporation is insolvent, or any dividend the payment of which renders the corporation insolvent or that diminishes its capital. 1970, c. 25, s. 153.



**154.**—(1) Notwithstanding anything in this Act, a corporation, Corporations with wasting assets

- (a) that for the time being carries on as its principal business the business of operating a producing mining, gas or oil property owned and controlled by it; or
- (b) at least 75 per cent of the assets of which are of a wasting character; or
- (c) incorporated for the object of acquiring the assets or a substantial part of the assets of a body corporate and administering such assets for the purpose of converting them into cash and distributing the cash among the shareholders of the corporation,

may declare and pay dividends out of the funds derived from the operations of the corporation.

(2) The powers conferred by subsection 1 may be exercised notwithstanding that the value of the net assets of the corporation may be thereby reduced to less than its issued capital if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the corporation exclusive of its issued capital. Extent of impairment of capital

(3) The powers conferred by subsection 1 may be exercised only under the authority of a special by-law. Special by-law

(4) Where dividends have been paid by a corporation in any of the cases mentioned in subsection 1 without the authority of a by-law, the payment thereof is nevertheless valid if a by-law adopting and approving the payment is passed and confirmed in the same manner as for a special by-law. 1970, c. 25, s. 154. Idem

**155.** For the amount of any dividend that the directors may declare payable in cash, they may declare a stock dividend and issue therefor shares of the corporation as fully paid. 1970, c. 25, s. 155. Stock dividends

#### RECORDS

**156.**—(1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book, or by means of a mechanical, electronic or other device. Records

(2) Where a record is not kept in a bound book, the corporation shall, Where not in bound book

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded; and
- (b) provide means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the record.



Admissi-  
bility of  
records in  
evidence

(3) The bound or looseleaf book or, where the record is not kept in a bound or looseleaf book, the information in the form in which it is made available under clause *b* of subsection 2 is admissible in evidence as *prima facie* proof, before and after dissolution of the corporation, of all facts stated therein.

False  
information

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or

(a) record or assist in recording any information in a record;  
or

(b) make information purporting to be accurate available in a form referred to in clause *b* of subsection 2,

knowing it to be untrue. 1970, c. 25, s. 156.

Records

**157.** A corporation shall cause to be kept the following records:

1. A copy of the articles of the corporation.
2. All by-laws and resolutions, including special by-laws and special resolutions of the corporation.
3. A register of security holders in which is set out the names alphabetically arranged or alphabetically indexed in appropriate categories of,
  - i. all persons who are or have been within ten years registered as shareholders of the corporation and the address including the street and number, if any, of every such person while a holder, in which are set out also the number and class of shares held by such holder and, where the shares were issued before the 1st day of January, 1971 and not fully paid, the amounts paid up and remaining unpaid on such shares,
  - ii. all persons who are or have been holders of debt obligations other than debt obligations in bearer form of the corporation and the address including the street and number, if any, of every such person while a holder in which are set out also the class or series and principal amount of the debt obligations held by such holder.
4. A register of directors in which are set out the names and residence addresses, including the street and number, if any, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director.

5. Proper accounting records in which are set out all financial and other transactions of the corporation including, without limiting the generality of the foregoing, records of,
  - i. all sums of money received and disbursed by the corporation and the matters with respect to which receipt and disbursement took place,
  - ii. all sales and purchases of the corporation,
  - iii. the assets and liabilities of the corporation, and
  - iv. all other transactions affecting the financial position of the corporation.
6. The minutes of all proceedings at meetings of shareholders, directors and any executive committee. 1970, c. 25, s. 157, *amended*.

**158.** Every corporation shall cause to be kept a register of transfers in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out. 1970, c. 25, s. 158. Register of transfers

**159.** A corporation may appoint a transfer agent to keep the register of security holders and the register of transfers and may also appoint one or more branch transfer agents to keep branch registers of security holders and branch registers of transfers. 1970, c. 25, s. 159. Transfer agents

**160.—**(1) The register of security holders and the register of transfers shall be kept at the head office of the corporation or at such other office or place in Ontario as is appointed by resolution of the directors, and the branch register or registers of security holders and the branch register or registers of transfers may be kept at such office or offices of the corporation or other place or places, either within or outside Ontario, as are appointed by resolution of the directors. Where registers to be kept

(2) Registration of the transfer of a security of the corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes. Valid registration

(3) In each branch register of transfers shall be recorded only the particulars of the transfers of securities registered in that branch register of transfers. Entry in branch transfer register

(4) Particulars of every transfer of securities registered in every branch register of transfers shall be recorded in the register of transfers. 1970, c. 25, s. 160, *amended*. Entry in register of transfers

Records  
open to  
examination  
by directors

**161.**—(1) The records mentioned in sections 157 and 158 shall, during the normal business hours of the corporation, be open to examination by any director and shall, except as provided in section 160 and in subsections 2 and 3 of this section, be kept at the head office of the corporation.

Records of  
account at  
branch

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the head office of the corporation or such other place as is authorized under subsection 3 such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation.

Order for  
removal of  
records

(3) Where a corporation,

- (a) shows, to the satisfaction of the Minister, the necessity of keeping all or any of the records mentioned in subsection 1 at a place other than the head office of the corporation; and
- (b) gives the Minister adequate assurance, by surety bond or otherwise, that such records will be open for examination,
  - (i) at the head office or some other place in Ontario designated by the Minister, and
  - (ii) by any person who is entitled to examine them and who has applied to the Minister for such an examination

the Minister may, by order and upon such terms as he thinks fit, permit the corporation to keep such of them at such place or places, other than the head office, as he thinks fit.

Rescission  
of orders  
made under  
subs. 3

(4) The Minister may by order upon such terms as he sees fit rescind any order made under subsection 3 or any order made by the Lieutenant Governor in Council under a predecessor of that subsection. 1970, c. 25, s. 161.

Examination  
of records  
by share-  
holders  
and  
creditors

**162.**—(1) Subject to section 163, the records of a corporation mentioned in section 157 or 158, other than accounting records, resolutions of directors and the minutes of proceedings at meetings of directors and of executive committees, shall, during the normal business hours of the corporation and at the place or places where they are kept, be open to examination by the shareholders and creditors or their agents or personal representatives, and any of them may make extracts therefrom.

Idem

(2) No person shall refuse to permit a person entitled thereto to inspect such records or to make extracts therefrom. 1970, c. 25, s. 162.

**163.**—(1) A shareholder or creditor or the agent or personal representative of any of them shall not make or cause to be made a list of all or any of the security holders of the corporation unless he has filed with the corporation or its agent his affidavit in the following form, and, where the security holder or creditor is a body corporate, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of the body corporate:

List of  
security  
holders

Form of Affidavit

Province of Ontario

In the matter of

County of

(Insert name of corporation)

I, ....., of the ..... of .....,  
in the ..... of .....,  
make oath and say:

1. I am a shareholder (or creditor) of the above-named corporation.  
  
(Where the shareholder or creditor is a body corporate, indicate office and authority of deponent in paragraph 1.)
2. I am applying to make a list of the shareholders (debt obligation holders) of the above-named corporation.
3. I require the list of shareholders (debt obligation holders) only for purposes connected with the above-named corporation.
4. The list of shareholders (debt obligation holders) and the information contained therein will be used only for purposes connected with the above-named corporation.

Sworn, etc.

(2) No person, other than the corporation or its agent, shall use a list of all or any of the security holders of a corporation obtained under this section,

Use of  
list

- (a) for the purpose of delivering or sending to all or any of the security holders advertising or other printed matter relating to securities, other than the securities of the corporation; or
- (b) for any purposes not connected with the corporation.

(3) Purposes connected with the corporation include any effort to influence the voting of shareholders or debt obligation holders at any meeting thereof and include the acquisition or offering of shares to acquire control or to effect an amalgamation or reorganization. 1970, c. 25, s. 163.

Purposes  
connected  
with the  
corporation  
defined







(6) Purposes connected with the corporation include any effort to influence the voting of shareholders at any meeting thereof, any offer to acquire shares in the corporation or any effort to effect an amalgamation or reorganization. 1970, c. 25, s. 164.

Purposes connected with corporation defined

**165.** No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the security holders of a corporation. 1970, c. 25, s. 165.

Trafficking in lists

**166.**—(1) Where the name of a person is, without sufficient cause, entered in or omitted from the records of a corporation other than accounting records, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a security holder of the corporation, the person or security holder aggrieved, or any security holder of the corporation, or the corporation itself, may apply to the court for an order that the records be rectified, and the court may dismiss such application or make an order for the rectification of the records and may direct the corporation to compensate the party aggrieved for any damage he has sustained.

Power of court to correct

(2) The court may, in any proceeding under this section, decide any question relating to the entitlement of a person who is a party to the proceeding to have his name entered in or omitted from such records whether the question arises between two or more security holders or alleged security holders, or between any security holders or alleged security holders and the corporation.

Decision as to title

(3) The court may direct an issue to be tried.

Trial of issue

(4) This section does not deprive any court of any jurisdiction it otherwise has. 1970, c. 25, s. 166.

Jurisdiction of courts not affected

AUDITORS AND FINANCIAL STATEMENTS

**167.**—(1) Subject to subsection 2, where in a financial year all the shareholders of a corporation that,

Exemption from audit provisions

- (a) is not offering its securities to the public;
- (b) has five or fewer shareholders; and
- (c) has assets not exceeding \$500,000 and sales and gross operating revenues not exceeding \$1,000,000, as shown on the financial statement of the corporation for the preceding year,

consent in writing, the corporation is exempt from sections 168 and 169, subsections 1 to 4 of section 170 and section 171 in respect of the year in which the consent is given.

Subsidiary  
corporations

(2) Subsection 1 does not apply to a subsidiary corporation unless its holding corporation is exempted under subsection 1 at the time the consent of the shareholders is given. 1970, c. 25, s. 167.

Auditors

**168.**—(1) The shareholders of a corporation at their first general meeting shall appoint one or more auditors to hold office until the close of the first annual meeting and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments.

Idem

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Casual  
vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal  
of auditor

(4) The shareholders may, by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Notice to  
auditor

(5) Before calling a general meeting for the purpose specified in subsection 4, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

(a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

Right of  
auditor  
to make  
representations

(6) The auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning his proposed removal as auditor, and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

Remunera-  
tion

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

Appoint-  
ment by  
court

(8) If for any reason no auditor is appointed, the court may, on the application of a shareholder, appoint one or more auditors to hold office until the close of the next annual meeting and may fix the remuneration to be paid by the corporation for his or their services.

(9) The corporation shall give notice in writing to an auditor of his appointment forthwith after the appointment is made. 1970, c. 25, s. 168. Notice of appointment

**169.**—(1) If, in the information circular required by subsection 1 of section 118, reference is made to action proposed to be taken at an annual meeting of shareholders with respect to the appointment of an auditor other than the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the incumbent auditor written notice of management's intention not to recommend his reappointment at the annual meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed. Notice to auditor of proposal to appoint another

(2) The incumbent auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning the proposal not to reappoint him as auditor, and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting. 1970, c. 25, s. 169. Right of incumbent auditor to make representations

**170.**—(1) No person shall be appointed or act as auditor of a corporation who is a director, officer or employee of the corporation or of an affiliate of the corporation or who is a partner, employer or employee of any such director, officer or employee or who is a related person to any director or officer of the corporation or of an affiliate of the corporation. Persons disqualified as auditors

(2) No person shall be appointed or act as auditor of a corporation if he or any partner or employer of or related person to him beneficially owns, directly or indirectly, any securities of the corporation or of a subsidiary thereof or, if the corporation is a subsidiary, any securities of its holding corporation. Idem

(3) Subsection 2 does not apply to a person, partner, employer or related person, as the case may be, if the person, partner, employer or related person is not empowered to decide whether securities of the corporation or its holding corporation, as the case may be, are to be beneficially owned, directly or indirectly, by him, or if he is not entitled to vote in respect thereof. 1970, c. 25, s. 170 (1-3). Where subs. 2 does not apply

(4) Where, on the 1st day of January, 1971, an auditor or his partner, employer or related person owns securities as set out in subsection 2, notwithstanding subsection 2, he may continue to act as auditor until not later than the 1st day of January, 1973 if he discloses in the report required under subsection 2 of section 171 that he or his partner, employer or related person so owns such securities but, at the expiration of such period, he shall cease to act as auditor unless he or his partner, employer or related person, as the case may be, has disposed of such securities. 1970, c. 25, s. 170 (4), *amended*. Idem

Auditors  
not to be  
appointed  
receivers,  
etc.

(5) No person shall be appointed a receiver or a receiver and manager or liquidator of any corporation of which he or any partner or employer of or a related person to him is the auditor or has been auditor within the two years preceding his appointment as receiver or receiver and manager or liquidator.

Trustee in  
bankruptcy  
not to be  
auditor  
R.S.C. 1952,  
c. 14

(6) No person who is appointed a trustee of the estate of a corporation under the *Bankruptcy Act* (Canada) or any partner or employer of or a related person to him shall be appointed or act as auditor of the corporation. 1970, c. 25, s. 170 (5, 6).

Annual  
audit

**171.**—(1) The auditor shall make such examination as will enable him to report to the shareholders as required by subsection 2.

Auditor's  
report

(2) The auditor shall make a report to the shareholders on the financial statement, other than the part thereof that relates to the period referred to in subclause ii of clause *b* of subsection 1 of section 172, to be laid before the corporation at any annual meeting during his term of office and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the corporation and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any.

Idem

(3) Where the report under subsection 2 does not contain the unqualified opinion required thereby the auditor shall state in his report the reasons therefor.

Facts  
discovered  
after  
statement

(4) Where facts come to the attention of the officers or directors which, if known prior to the date of the last annual general meeting of shareholders, would have required a material adjustment to the financial statement presented to such meeting, the officers or directors shall communicate such facts to the auditor who reported to the shareholders under this section and the directors shall forthwith amend the financial statement and send it to the auditor.

Amendment  
of  
auditor's  
report

(5) On the receipt of facts furnished under subsection 4 or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection 3 and the directors or, if they fail to do so within a reasonable time, the auditor shall mail such amended report to the shareholders.

Idem

(6) If the financial statement contains a statement of changes in net assets or a statement of source and application of funds, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of changes in net assets or the statement of source and application of funds presents fairly the information shown therein.



(7) Whether or not the assets and liabilities and income and expense of any one or more subsidiaries of a holding corporation are included in the financial statement of the holding corporation, the report of the auditor of the holding corporation required by subsection 2 may refer to the reports of auditors of one or more of such subsidiaries, but such reference shall not derogate from the duty of the auditor of the holding corporation to comply with subsection 2. Idem

(8) The auditor in his report shall make such statements as he considers necessary, Idem

- (a) if the corporation's financial statement is not in agreement with its accounting records;
- (b) if the corporation's financial statement is not in accordance with the requirements of this Act;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination.

(9) The auditor of a corporation has right of access at all times to all records, documents, accounts and vouchers of the corporation and is entitled to require from the directors, officers and employees of the corporation such information and explanation as in his opinion are necessary to enable him to report as required by subsection 2. Right of access, etc.

(10) The auditor of a holding corporation has right of access at all times to all records, documents, accounts and vouchers of all subsidiaries of the corporation and is entitled to require from the directors, officers and employees of each such subsidiary such information and explanation as in his opinion are necessary to enable him to report as required by subsection 2. Idem

(11) Where a subsidiary referred to in subsection 10 is a body corporate to which this Act does not apply, the holding corporation shall make available to its auditor the records, documents, accounts and vouchers of that subsidiary and shall require the directors, officers and employees of that subsidiary to make available to its auditor the information and explanation required by subsection 10. Idem

(12) The auditor of a corporation is entitled to attend any meeting of shareholders of the corporation and to receive all notices and other communications relating to any such meeting that a shareholder is entitled to receive, and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. Auditor may attend shareholders' meetings



Shareholder  
may  
require  
auditor's  
attendance  
at share-  
holders'  
meetings

(13) Any shareholder of a corporation, whether or not he is entitled to vote at meetings of shareholders, may, by notice in writing to the corporation given five days or more before any meeting of shareholders, require the attendance of the auditor at such meeting at the corporation's expense, and in such event the auditor shall attend the meeting.

Auditors  
must  
answer  
inquiries at  
shareholders'  
meetings

(14) At any meeting of shareholders the auditor, if present, shall answer inquiries directed to him concerning the bases upon which he formed the opinion stated in the report made under subsection 2. 1970, c. 25, s. 171.

Information  
to be  
laid before  
annual  
meeting

**172.**—(1) The directors shall lay before each annual meeting of shareholders,

- (a) in the case of a corporation that is not offering its securities to the public, a financial statement for the period that commenced on the date of incorporation and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, as the case may be, made up of,
  - (i) a statement of profit and loss for such period,
  - (ii) a statement of surplus for such period, and
  - (iii) a balance sheet as at the end of such period;
- (b) in the case of a corporation that is offering its securities to the public, a comparative financial statement relating separately to,
  - (i) the period that commenced on the date of incorporation and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, as the case may be, and
  - (ii) the period covered by the financial year next preceding such latest completed financial year, if any,

made up of,

- (iii) a statement of profit and loss for each period,
- (iv) a statement of surplus for each period,
- (v) in the case of a corporation that is a mutual fund company or investment company as defined in the regulations under *The Securities Act*, a statement of changes in net assets for each period,

- (vi) in the case of a corporation other than one referred to in subclause v, a statement of source and application of funds for each period, and
- (vii) a balance sheet as at the end of each period;
- (c) the report of the auditor to the shareholders; and
- (d) such further information respecting the financial position of the corporation as the articles or by-laws of the corporation require.

(2) It is not necessary to designate the statements referred to in subsection 1 as the statement of profit and loss, statement of surplus, statement of changes in net assets, statement of source and application of funds and balance sheet. Designation of statements

(3) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection at the meeting by any shareholder. 1970, c. 25, s. 172. Auditor's report to be read

**173.**—(1) The statement of profit and loss to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the corporation for the period covered by the statement and so as to distinguish severally at least, Statement of profit and loss

- (a) in the case of a corporation that is offering its securities to the public, sales or gross operating revenue;
- (b) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately;
- (c) income from investments in subsidiaries whose financial statements are not consolidated with those of the corporation;
- (d) income from investments in affiliated corporations other than subsidiaries;
- (e) income from other investments;
- (f) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus;
- (g) any provision for depreciation or for obsolescence or for depletion;
- (h) amounts written off for goodwill or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus;
- (i) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense; and

(j) taxes on income imposed by any taxing authority, and shall show the net profit or loss for the financial period.

Notes

(2) Notwithstanding subsection 1, items of the natures described in clauses *g* and *h* of subsection 1 may be shown by way of note to the statement of profit and loss.

Order for omission of sales or gross operating revenue

(3) A corporation that is offering its securities to the public may apply to the Commission for an order permitting sales or gross operating revenue referred to in clause *a* of subsection 1 of this section or subclause *i* of clause *c* of subsection 1 of section 185 to be omitted from the statement of profit and loss or the interim financial statement, as the case may be, and the Commission may, on such terms and conditions as it may impose, permit such omission where it is satisfied that in the circumstances the disclosure of such information would be unduly detrimental to the interests of the corporation.

Mutual fund or investment companies R.S.O. 1970, c. 426

(4) The statement of profit and loss of a mutual fund company or an investment company, as defined in the regulations under *The Securities Act*, shall also distinguish the average net investment income per share and an item of this nature may be shown by way of note to the statement of profit and loss. 1970, c. 25, s. 173.

Statement of surplus

**174.**—(1) The statement of surplus to be laid before an annual meeting shall be drawn up so as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus.

Contributed surplus

(2) The statement of contributed surplus shall be drawn up so as to include and distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period including,
  - i. the amount of surplus arising from the issue of shares or the reorganization of the corporation's issued capital, including *inter alia*,
    - a. the amount of premiums received on the issue of shares at a premium,
    - b. the amount of surplus realized on the purchase for cancellation of shares, and
  - ii. donations of cash or other property by shareholders.
3. The balance of such surplus at the end of the financial period.

(3) The statement of earned surplus shall be drawn up so as to distinguish at least the following items: Earned surplus

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and without restricting the generality of the foregoing at least the following:
  - i. The amount of the net profit or loss for the financial period.
  - ii. The amount of dividends declared on each class of shares.
  - iii. The amount transferred to or from reserves.
3. The balance of such surplus at the end of the financial period. 1970, c. 25, s. 174.

**175.**—(1) The statement of changes in net assets referred to in subclause v of clause b of subsection 1 of section 172 and clause a of subsection 1 of section 185 shall be drawn up so as to present fairly the information shown therein for the period and shall show separately at least, Statement of changes in net assets

- (a) net assets at beginning of the period;
- (b) net investment income or loss;
- (c) aggregate proceeds on sale of portfolio securities;
- (d) aggregate cost of portfolio securities owned at beginning of the period;
- (e) aggregate cost of purchases of portfolio securities;
- (f) aggregate cost of portfolio securities owned at end of the period;
- (g) aggregate cost of portfolio securities sold;
- (h) realized profit or loss on securities sold;
- (i) distributions, showing separately the amount out of net investment income and out of realized profits;
- (j) proceeds from shares issued;
- (k) cost of shares redeemed;
- (l) net increase or decrease in unrealized appreciation or depreciation of portfolio securities;
- (m) net assets at end of the period;
- (n) net asset value per share at end of the period;
- (o) net asset value per share at beginning of the period;
- (p) distribution per share out of net investment income;
- (q) distribution per share out of realized profits.



Note to  
statement

(2) Notwithstanding subsection 1, items of the natures described in clauses *n*, *o*, *p* and *q* of subsection 1 may be shown by way of note to the statement of changes in net assets. 1970, c. 25, s. 175.

Statement  
of source  
and  
application  
of funds

**176.** The statement of source and application of funds referred to in subclause vi of clause *b* of subsection 1 of section 172 and clause *b* of subsection 1 of section 185 shall be drawn up so as to present fairly the information shown therein for the period, and shall show separately at least,

- (a) funds derived from,
  - (i) current operations,
  - (ii) sale of non-current assets, segregating investments, fixed assets and intangible assets,
  - (iii) issue of debt obligations or other indebtedness maturing more than one year after issue, and
  - (iv) issue of shares; and
- (b) funds applied to,
  - (i) purchase of non-current assets, segregating investments, fixed assets and intangible assets,
  - (ii) redemption or other retirement of debt obligations or repayment of other indebtedness maturing more than one year after issue,
  - (iii) redemption or other retirement of shares, and
  - (iv) payment of dividends. 1970, c. 25, s. 176.

Balance  
sheet

**177.**—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the corporation as at the date to which it is made up and so as to distinguish severally at least the following:

1. Cash.
2. Debts owing to the corporation from its directors, officers or shareholders, except debts of reasonable amount arising in the ordinary course of its business that are not overdue having regard to its ordinary terms of credit.
3. Debts owing to the corporation, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the corporation.
4. Debts owing to the corporation, whether on account of a loan or otherwise, from affiliated corporations other than subsidiaries.
5. Other debts owing to the corporation segregating those that arose otherwise than in the ordinary course of its business.



6. Inventory, stating the basis of valuation.
7. Shares, bonds, debentures and other investments owned by the corporation, except those referred to in paragraphs 8 and 9, stating their nature and the basis of their valuation and showing separately those that are marketable with a notation of their market value.
8. Securities of subsidiaries whose financial statements are not consolidated with those of the corporation, stating the basis of valuation.
9. Securities of affiliated corporations other than subsidiaries, stating the basis of valuation.
10. Lands, buildings, and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and, if such appraisal took place within five years preceding the date to which the balance sheet is made up, the disposition in the accounts of the corporation of any amounts added to or deducted from such assets on appraisal and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.
11. There shall be stated under separate headings, in so far as they are not written off,
  - i. expenditures on account of future business,
  - ii. any expense incurred in connection with any issue of shares,
  - iii. any expense incurred in connection with any issue of debt obligations, including any discount thereon, and
  - iv. any one or more of the following: goodwill, franchises, patents, copyrights, trade marks and other intangible assets and the amount, if any, by which the value of any such assets has been written up within a period of five years preceding the date to which the balance sheet is made up.
12. The aggregate amount of any outstanding loans or guarantees under clauses *c* and *d* of subsection 2 of section 17.
13. Bank loans and overdrafts.
14. Debts owing by the corporation on loans from its directors, officers or shareholders.
15. Debts owing by the corporation to subsidiaries whose financial statements are not consolidated with those of the corporation, whether on account of a loan or otherwise.

16. Debts owing by the corporation to affiliated corporations other than subsidiaries, whether on account of a loan or otherwise.
17. Other debts owing by the corporation, segregating those that arose otherwise than in the ordinary course of its business.
18. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.
19. Dividends declared but not paid.
20. Deferred income.
21. Debt obligations issued by the corporation, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.
22. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.
23. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
  - i. the number of shares of each class issued since the date of the last preceding balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration, and
  - ii. where any shares issued before this Act comes into force have not been fully paid,
    - a. the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
    - b. the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.
24. Contributed surplus.
25. Earned surplus.
26. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period.
27. The number of common shares purchased and the number of the common shares resold since the date of

the last preceding balance sheet, giving the date of each such purchase and resale and the price at which each such purchase or resale was made.

(2) Explanatory information or particulars of any item mentioned in subsection 1 may be shown by way of note to the balance sheet. 1970, c. 25, s. 177. Notes

**178.**—(1) There shall be stated by way of note to the financial statement particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the profit or loss for the period. Notes to financial statement

(2) For the purpose of subsection 1, a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period, even though such change did not have a material effect upon the profit or loss for the period. Change in accounting practice

(3) Where applicable, the following matters shall be referred to in the financial statement or by way of note thereto: Idem

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the corporation.
3. Contractual obligations that will require abnormal expenditures in relation to the corporation's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.
5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
6. Any liability secured otherwise than by operation of law on any asset of the corporation, stating the liability so secured.
7. Any default of the corporation in principal, interest, sinking fund or redemption provisions with respect to any issue of its debt obligation or credit agreements.
8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.

9. Where a corporation has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
10. Where a corporation has contracted to purchase or resell common shares, the number of shares affected and price and date for the purchase or resale.
11. The aggregate direct remuneration paid or payable by the corporation and its subsidiaries whose financial statements are consolidated with those of the corporation to the directors and the senior officers and, as a separate amount, the aggregate direct remuneration paid or payable to such directors and senior officers by the subsidiaries of the corporation whose financial statements are not consolidated with those of the corporation.
12. In the case of a holding corporation, the aggregate of any shares in, and the aggregate of any debt obligations of, the holding corporation held by subsidiary corporations whose financial statements are not consolidated with those of the holding corporation.
13. The amount of any loans by the corporation, or by a subsidiary corporation, otherwise than in the ordinary course of business, during the corporation's financial period, to the directors or officers of the corporation.
14. Any restriction by the articles or by-laws of the corporation or by contract on the payment of dividends that is significant in the light of the corporation's financial position.
15. Any event or transaction, other than one in the normal course of business operations, between the date to which the financial statement is made up and the date of the auditor's report thereon that materially affects the financial statement.
16. In the case of a corporation that is offering its securities to the public, the amount of any obligation for pension benefits arising from service before the date of the balance sheet, whether or not such obligation has been provided for in the accounts of the corporation, the manner in which the corporation proposes to satisfy such obligation and the basis on which it has charged or proposes to charge the related costs against operations.
17. Brief particulars of any action to which the corporation is a party commenced under section 99 during the period.

Idem

(4) A note to a financial statement is a part of it. 1970, c. 25, s. 178.



**179.**—(1) A corporation, in this section referred to as “the holding corporation”, may include in the financial statement to be submitted at an annual meeting the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statement that it is presented in consolidated form.

Consolidated financial statement

(2) Where the assets and liabilities and income and expense of any one or more subsidiaries of the holding corporation are not so included in the financial statement of the holding corporation,

Non-consolidated financial statements

- (a) the financial statement of the holding corporation shall include a statement setting forth,
  - (i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statement of the holding corporation,
  - (ii) if there is only one such subsidiary, the amount of the holding corporation’s proportion of the profit or loss of the subsidiary for the financial period coinciding with or ending in the financial period of the holding corporation, or, if there is more than one such subsidiary, the amount of the holding corporation’s proportion of the aggregate profits less losses, or losses less profits, of all the subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding corporation,
  - (iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding corporation and the amount included therein as a provision for the loss or losses of the subsidiary or subsidiaries,
  - (iv) if there is only one such subsidiary, the amount of the holding corporation’s proportion of the undistributed profits of the subsidiary earned since the acquisition of the shares of the subsidiary by the holding corporation to the extent that such amount has not been taken into the accounts of the holding corporation, or, if there is more than one such subsidiary, the amount of the holding corporation’s proportion of the aggregate undistributed profits of all the subsidiaries earned since the acquisition of their shares by the holding corporation less its proportion of the losses, if any, suffered by any subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding corporation,



- (v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statement for the financial period ending as aforesaid, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the corporation's own financial statement and is material from the point of view of its shareholders;
- (b) if for any reason the directors of the holding corporation are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statement of the holding corporation, the directors who sign the financial statement shall so report in writing and their report shall be included in the financial statement in lieu of the statement;
- (c) if, in the opinion of the auditor of the holding corporation, adequate provision has not been made in the financial statement of the holding corporation for the holding corporation's proportion,
  - (i) where there is only one such subsidiary, of the loss of the subsidiary suffered since acquisition of its shares by the holding corporation, or
  - (ii) where there is more than one such subsidiary, of the aggregate losses suffered by the subsidiaries since acquisition of their shares by the holding corporation in excess of its proportion of the undistributed profits, if any, earned by any of the subsidiaries since such acquisition,

the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor.

Copies of  
subsidiary  
statements

(3) Whether or not the assets and liabilities and income and expense of any one or more subsidiaries of a holding corporation are included in the financial statement of the holding corporation, true copies of the latest financial statement of the subsidiary or subsidiaries shall be kept on hand by the holding corporation at its head office and shall be open to examination by the shareholders of the holding corporation on request during the normal business hours of the holding corporation, but the directors of the holding corporation may by resolution refuse the right of such examination if the examination would be unduly detrimental to the interests of the corporation or the subsidiary or subsidiaries.

(4) A resolution referred to in subsection 3 may, on the application of any shareholder, Setting aside resolution

- (a) be set aside by the Commission where the corporation is offering its securities to the public; or
- (b) be set aside by the court where the corporation is not offering its securities to the public. 1970, c. 25, s. 179.

**180.** Notwithstanding sections 173 to 179, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance. 1970, c. 25, s. 180. Insignificant circumstances

**181.** In a financial statement, the term “reserve” shall be used to describe only, Reserve

- (a) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from earned surplus pursuant to the articles or by-laws of the corporation for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled. 1970, c. 25, s. 181.

**182.—(1)** The directors of a corporation that is offering its securities to the public shall elect annually from among their number a committee to be known as the audit committee to be composed of not fewer than three directors, of whom a majority shall not be officers or employees of the corporation or an affiliate of the corporation, to hold office until the next annual meeting of the shareholders. Audit committee

(2) The members of the audit committee shall elect a chairman from among their number. Chairman

(3) The corporation shall submit the financial statement to the audit committee for its review and the financial statement shall thereafter be submitted to the board of directors. Review

(4) The auditor has the right to appear before and be heard at any meeting of the audit committee and shall appear before the audit committee when required to do so by the committee. Hearing of auditor

Idem (5) Upon the request of the auditor, the chairman of the audit committee shall convene a meeting of the committee to consider any matters the auditor believes should be brought to the attention of the directors or shareholders. 1970, c. 25, s. 182.

Approval by directors **183.** The financial statement shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign or by the director where there is only one and the auditor's report shall be attached to or accompany the financial statement. 1970, c. 25, s. 183.

Mailing of financial statement to shareholders **184.**—(1) A corporation that is offering its securities to the public shall, twenty-one days or more before the date of the annual meeting of shareholders, send by prepaid mail to each shareholder at his latest address as shown on the records of the corporation a copy of the financial statement and a copy of the auditor's report.

Idem (2) The directors of such corporation shall send by prepaid mail to each such shareholder a copy of any financial statement and auditor's report amended under subsection 4 and 5 of section 171.

Financial statement, on demand (3) A shareholder of a corporation that is not offering its securities to the public is entitled to be furnished by the corporation on demand with a copy of the documents mentioned in subsection 1. 1970, c. 25, s. 184.

Comparative interim financial statement **185.**—(1) A corporation that is offering its securities to the public shall send to each shareholder a copy of a comparative interim financial statement for the six-month period that commenced on the date of incorporation or, if the corporation has completed a financial year, for the six-month period that commenced immediately after the end of the last completed financial year and for the comparable six-month period, if any, in the twelve months immediately preceding the commencement of the six-month period in respect of which such interim financial statement is issued, made up of,

- R.S.O. 1970, c. 426
- (a) in the case of a corporation that is a mutual fund company or investment company as defined in the regulations under *The Securities Act*, a statement of changes in net assets for each period that complies with section 175;
  - (b) in the case of a corporation other than one referred to in clause *a*, a statement of source and application of funds for each period that complies with section 176; and
  - (c) sufficient relevant financial information in summary form to present fairly the results of the operations of the corporation for each period, including,

- (i) a statement of sales or gross operating revenue,
- (ii) extraordinary items of income or expense,
- (iii) net income before taxes on income imposed by any taxing authority,
- (iv) taxes on income imposed by any taxing authority, and
- (v) net profit or loss.

(2) Upon the application of any interested person, the Commission may, if satisfied that in the circumstances of the particular case there is adequate justification for so doing, make an order upon such terms and conditions as seem to the Commission just and expedient, exempting in whole or in part a corporation from the requirements of subsection 1 or permitting the comparative interim financial statement of a corporation to be for such period other than six months that is specified in the order.

Variation  
of period

(3) There shall be stated by way of note to the interim financial statement required by subsection 1 particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of such statement with the statement for the preceding period or with the interim financial statement for a part of the preceding period, and the effect, if material, of any such change upon the profit or loss for the period covered by the interim financial statement.

Idem

(4) For the purpose of subsection 3, a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period or part thereof, even though such change did not have a material effect upon the profit or loss for the period covered by the interim financial statement.

Idem

(5) The interim financial statement required by subsection 1 shall be sent by prepaid mail to each shareholder, within sixty days of the date to which it is made up, at his latest address as shown on the records of the corporation. 1970, c. 25, s. 185.

Idem

#### INVESTIGATIONS

**186.**—(1) Upon application by a shareholder of a corporation, the court, if satisfied that the application is made in good faith and that it is *prima facie* in the interests of the corporation or the holders of its securities to do so, may make an order, upon such terms as to the costs of the investigation or audit or otherwise as to the court seems fit, appointing an inspector to investigate the affairs and management of the corporation or any affiliate of the corporation, or both, and to audit the accounts and records of the corporation or any affiliate thereof named in the order.

Investiga-  
tions and  
audits



Idem (2) An order may be made under subsection 1 whether or not there has been disclosure to the shareholders of the corporation of information relating to any matter on the basis of which the order is made.

Production of accounts and records (3) Every director, officer, agent, employee, banker and auditor of the corporation or of any affiliate of the corporation named in the order and every other person shall produce for the examination of the inspector all accounts and records of or relating to the corporation or affiliate in their custody or control.

Examination may be upon oath (4) The inspector may examine upon oath any present or former director, officer, agent or employee of the corporation or affiliate in relation to its affairs, management, accounts and records.

Court order for examination (5) The court may, on the application of the inspector, on such terms and conditions as it sees fit, order any person not mentioned in subsection 4 to attend and be examined under oath before the inspector on any matter relevant to the investigation or audit.

Offences (6) Every director, officer, agent or employee who refuses to produce any account or record referred to in subsection 3 and every banker or auditor who refuses to produce any account or record referred to in subsection 4 and every person examined under subsection 5 who refuses to answer any question related to the affairs and management of the corporation or any affiliate is guilty of an offence under section 259, in addition to any other liability to which he is subject.

Inspector's report (7) The inspector shall make a report to the court and shall forward a copy of the report to the corporation and any affiliate of the corporation named in the order and to the person who made the application under subsection 1. 1970, c. 25, s. 186.

Corporation may appoint inspector for same purpose **187.**—(1) A corporation may, by resolution passed at an annual meeting of shareholders or a general meeting of shareholders called for that purpose, appoint an inspector to investigate its affairs and management.

Powers and duties of inspector (2) The inspector appointed under subsection 1 has the same powers and shall perform the same duties as an inspector appointed under section 186 and he shall make his report in such manner and to such persons as the corporation by resolution of the shareholders directs. 1970, c. 25, s. 187.

Report admissible in proceedings **188.** A copy of the report of the inspector authenticated by the court or in the case of an investigation under section 187 by the inspector is admissible in any legal proceeding as evidence of the opinion of the inspector in relation to any matter contained in the report. 1970, c. 25, s. 188.



## REORGANIZATION

*Amendment of Articles*

**189.**—(1) A corporation may, from time to time, amend its articles of incorporation to, Amend-  
ments

- (a) change its name;
- (b) extend, limit or otherwise vary its objects;
- (c) increase its authorized capital;
- (d) decrease,
  - (i) its authorized capital by cancelling shares, whether issued or unissued and whether with par value or without par value, or by reducing the par value of issued or unissued shares, or
  - (ii) its issued capital, if it has shares without par value, and, where it has more capital than it requires, to authorize the repayment of capital to the shareholders to the extent that the issued capital is decreased in any way under this clause;
- (e) redivide its authorized capital into shares of lesser or greater par value;
- (f) consolidate or subdivide any of its shares without par value;
- (g) change any of its shares with par value into shares without par value;
- (h) change any of its shares without par value into shares with par value;
- (i) redesignate any class of shares;
- (j) reclassify any shares with or without par value into shares of a different class;
- (k) delete or vary any provision in its articles;
- (l) provide for any other matter or thing that is authorized by this Act to be set out in the articles or that could be the subject of a by-law of the corporation;
- (m) provide for restrictions on the transfer of the shares or any class thereof.

(2) An amendment under clauses *a* to *l* of subsection 1 shall be authorized by a special resolution. Authoriza-  
tion

(3) An amendment under clause *m* of subsection 1 shall be authorized by a resolution of the board of directors and confirmed in writing, Idem

- (a) by 100 per cent of the shareholders; or
- (b) by at least 95 per cent of the shareholders holding at least 95 per cent of the issued capital,

but, in the case of confirmation under clause *b*, the resolution is not effective until twenty-one days notice of the resolution has been given by sending the notice to each shareholder to his latest address as shown on the records of the corporation and only if at the expiration of the twenty-one days none of the shareholders has dissented in writing to the corporation.

Additional  
authoriza-  
tion for  
variation  
of rights of  
special  
shareholders

(4) If the amendment is to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to a class of special shares or to create special shares ranking in any respect in priority to or on a parity with an existing class of special shares, then, in addition to the confirmation required by subsection 2, the resolution is not effective until it has been confirmed,

(a) by 100 per cent of the holders of the shares of such class or classes of shares in writing; or

(b) in writing by at least 95 per cent of the holders of the shares of such class or classes of shares holding at least 95 per cent of the issued shares of such class or classes and after twenty-one days notice of the resolution and confirmation has been given by sending the notice to each of the holders of shares of such class or classes to his latest address as shown on the records of the corporation and only if at the expiration of twenty-one days none of the holders of such class or classes has dissented in writing to the corporation; or

(c) if the articles so provide, by at least two-thirds of the votes cast at a meeting of the holders of such class or classes of shares duly called for that purpose or such greater proportion of the votes cast as the articles provide,

and by such additional authorization as the articles provide.

Exception

(5) Where an amendment to the articles that could be made under this section is made as part of an arrangement under sections 193, 194 and 195, the procedure provided for in those sections and not the procedure provided for in this section applies to the amendment.

Special  
Act cor-  
porations  
excepted

(6) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act may under this section amend its articles to change its name. 1970, c. 25, s. 189.

Articles of  
amendment

**190.**—(1) For the purpose of bringing an amendment to the articles into effect, the corporation shall deliver to the Minister, within six months after the resolution has become effective, articles of amendment in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation and verified by affidavit of one of the

officers or directors signing the articles of amendment, setting out,

- (a) the name of the corporation;
- (b) a certified copy of the resolution;
- (c) that the amendment has been duly authorized as required by subsections 2, 3 and 4 of section 189; and
- (d) the date of the confirmation of the resolution by the shareholders.

(2) Where the articles of amendment are to change the name of the corporation, the articles of amendment shall be accompanied by evidence that establishes to the satisfaction of the Minister that the corporation is not insolvent. Change of name

(3) Where the articles of amendment are to decrease the authorized or issued capital, the articles of amendment shall be accompanied by evidence that establishes to the satisfaction of the Minister that the corporation is not insolvent and that the decrease will not render the corporation insolvent, and, if required by the Minister, by evidence that establishes to his satisfaction that no creditors object to the amendment. Decrease of capital

(4) Where the articles of amendment are to make any change in the authorized or issued capital, the articles of amendment shall, if required by the Minister, be accompanied by a *pro forma* balance sheet after giving effect to the proposed change. 1970, c. 25, s. 190. Pro forma balance sheet

**191.**—(1) If the articles of amendment conform to law, the Minister shall, when all prescribed fees have been paid, Certificate of amendment

- (a) endorse on each duplicate of the articles of amendment the word “Filed” and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the corporation or its agent a certificate of amendment to which he shall affix the other duplicate.

(2) The amendment becomes effective upon the date set forth in the certificate of amendment and the articles of incorporation are amended accordingly. 1970, c. 25, s. 191. Effect of certificate

### *Restatement of Articles*

**192.**—(1) A corporation may at any time restate its articles of incorporation as theretofore amended. Restatement of articles

(2) For the purposes of bringing the restated articles into effect, the corporation shall deliver to the Minister the restated articles in duplicate, executed under the seal of the corporation Filing of restatement

and signed by two officers, or by one director and one officer, of the corporation and verified by affidavit of one of the officers or directors signing the restated articles, setting out,

- (a) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and
- (b) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

Restatement  
of  
certificate

(3) If the restated articles of incorporation conform to law, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the restated articles the word "Filed" and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the corporation or its agent a restated certificate of incorporation to which he shall affix the other duplicate.

Effect of  
certificate

(4) The restated articles of incorporation become effective upon the date set forth in the restated certificate and supersede the original articles of incorporation and all amendments thereto. 1970, c. 25, s. 192

### *Arrangements*

Interpre-  
tation

**193.**—(1) In this section and sections 194 and 195, "arrangement" includes a reorganization of the authorized capital of a corporation and also includes,

- (a) the consolidation of shares of different classes;
- (b) the reclassification of shares of one class into shares of another class;
- (c) the variation of the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares of any class; and
- (d) a reconstruction under which a corporation transfers or sells, or proposes to transfer or to sell, to another body corporate the whole or a substantial part of its undertaking for a consideration consisting in whole or in part of securities of the other body corporate and under which it proposes to distribute a part of that consideration among its shareholders of any class, or to cease carrying on its undertaking or that part of its undertaking so transferred or sold or so proposed to be transferred or sold.



- (2) Subject to section 195, a corporation may make an arrange-  
ment,

Arrange-  
ment

(a) that affects the rights of all its shareholders; or

(b) that affects the rights of only holders of a particular  
class of its shares.
- (3) Where a corporation proposing an arrangement has one or  
more subsidiaries, any one or more of the subsidiaries may join in  
the arrangement with the holding corporation in one  
scheme. 1970, c. 25, s. 193.

Subsidiaries
- 194.—(1) A corporation proposing an arrangement shall  
prepare a scheme for the purpose, prescribing in detail what is to  
be done and the manner in which it is to be effected.

Scheme of  
arrange-  
ment
- (2) The corporation shall submit the scheme to the sharehold-  
ers, or to the class of them affected, as the case may be, at a  
meeting duly called by the corporation for the purpose of  
considering the scheme.

Submission  
to share-  
holders
- (3) Where a meeting of the shareholders or of any class or  
classes of shareholders is called under subsection 2, the notice  
calling the meeting shall contain a statement explaining the effect  
of the arrangement and in particular stating any interest of the  
directors of the corporation, whether as directors or as sharehold-  
ers of the corporation or otherwise, and the effect thereon of the  
arrangement in so far as it is different from the effect on the like  
interest of other persons.

Contents  
of notice  
calling  
meeting
- (4) If the shareholders of the corporation or of the class or  
classes affected, as the case may be, present in person or by proxy  
at the meeting, agree, by a vote of at least three-fourths of the  
shares of each class represented, to the arrangement either as  
proposed or as varied at the meeting, the scheme shall be deemed  
to have been adopted.

Approval  
by share-  
holders
- (5) Where the scheme is deemed to have been adopted, the  
corporation may apply to the court for an order approving the  
scheme.

Approval  
by court
- (6) The corporation shall notify the Minister and unless the  
court otherwise directs, each of its dissentient shareholders, in  
such manner as the court may direct, of the time and place when  
the application for the approving order will be made.

Notice
- (7) The Minister may appoint counsel to assist the court upon  
the hearing of an application under this section.

Counsel
- (8) The court shall hear and determine the matter and may  
approve the scheme as presented or may approve it, subject to  
compliance with such terms and conditions as it thinks fit, having  
regard to the rights and interests of the dissentient shareholders,  
or any of them. 1970, c. 25, s. 194.

Order



Filing of  
statement  
to amend  
articles

**195.**—(1) For the purpose of bringing a scheme into effect, the corporation shall, within six months of the approval of the scheme by the court, deliver to the Minister a statement in duplicate executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation, and verified by affidavit of one of the officers or directors signing the statement, setting out,

- (a) the name of the corporation;
- (b) a certified copy of the scheme;
- (c) a certified copy of the order of the court; and
- (d) that the terms and conditions, if any, to which the scheme is made subject by the order have been complied with.

Issuance of  
certificate

(2) If the statement conforms to law, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the statement the word "Filed" and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the corporation or its agent a certificate of the filing to which he shall affix the other duplicate.

Effect of  
certificate

(3) Upon the issuance of the certificate of filing, the scheme becomes effective and constitutes an amendment to the articles. 1970, c. 25, s. 195.

#### *Amalgamations and Continuations*

Amalga-  
mation

**196.**—(1) Any two or more corporations, including holding or subsidiary corporations, may amalgamate and continue as one corporation.

Agreement

(2) The corporations proposing to amalgamate shall enter into an agreement for the amalgamation, prescribing its terms and conditions of the amalgamation and the mode of carrying the amalgamation into effect, and, in particular the agreement shall set out,

- (a) the name of the amalgamated corporation;
- (b) the period of duration of the amalgamated corporation if other than perpetual;
- (c) the place in Ontario where the head office of the amalgamated corporation is to be located, giving the municipality and the county or district or, where the head office is to be located in territory without municipal organization, the geographic township and district, and giving the street and number, if any;

- (d) the authorized capital of the amalgamated corporation, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share, or, where the shares are to be without par value, the consideration, if any, exceeding which each share may not be issued or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued;
- (e) where there are to be special shares, the designations, preferences, rights, conditions, restrictions, limitations or prohibitions applying to them or each class of them;
- (f) the restrictions, if any, to be placed on the transfer of its shares, or any class thereof;
- (g) the names in full and the residence address, giving the street and number, if any, of each person who is to be a first director of the amalgamated corporation;
- (h) the time and manner of election of the subsequent directors of the amalgamated corporation;
- (i) whether or not the by-laws of the amalgamated corporation are to be those of one of the amalgamating corporations, and, if not, a copy of the proposed by-laws of the amalgamated corporation;
- (j) the manner in which the issued shares of each of the amalgamating corporations are to be converted into issued shares of the amalgamated corporation;
- (k) such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated corporation.

(3) Where shares of one of the amalgamating corporations are held by or on behalf of another of the amalgamating corporations, the amalgamation agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in respect thereof, and no provision shall be made in the agreement for the conversion of such shares into shares of the amalgamated corporation.

Shares of  
amalgamating  
corporation  
held by  
another

(4) An amalgamation agreement is not effective until approved by a special resolution of each of the amalgamating corporations.

Approval of  
agreement

(5) Where the carrying out of the amalgamation agreement would result in the deletion or variation of a preference, right, condition, restriction, limitation or prohibition attaching to a class of issued special shares of any of the amalgamating corporations or in the creation of special shares of the amalgamated corporation ranking in any respect in priority to, or on a parity

Approval  
by special  
shareholders

with, any existing class of special shares of any of the amalgamating corporations, the agreement is not effective until it is approved in the manner provided by subsection 4 of section 189 in addition to the approval required by subsection 4 of this section. 1970, c. 25, s. 196.

Filing of  
articles of  
amalgama-  
tion

**197.**—(1) For the purpose of bringing an amalgamation into effect, the amalgamating corporations shall, within six months after the amalgamation agreement has become effective, deliver to the Minister articles of amalgamation in duplicate executed under the seal of each of the amalgamating corporations and signed by two officers, or by one director and one officer, of each of the amalgamating corporations and verified by affidavit of one of the officers or directors signing the articles of amalgamation for each amalgamating corporation, setting out,

- (a) the names of each of the amalgamating corporations;
- (b) a certified copy of the amalgamation agreement;
- (c) that the agreement has been duly approved as required by section 196; and
- (d) the dates on which the amalgamation agreement was approved by the shareholders of each of the amalgamating corporations.

Evidence of  
solvency

(2) The articles of amalgamation shall be accompanied by evidence that establishes to the satisfaction of the Minister that each of the amalgamating corporations is not insolvent and, if required by the Minister, a *pro forma* balance sheet after giving effect to the proposed amalgamation.

Issuance of  
certificate  
of amalga-  
mation

(3) If the articles of amalgamation conform to law, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the articles the word "Filed" and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the amalgamated corporation or its agent a certificate of amalgamation to which he shall affix the other duplicate.

Effect of  
certificate

(4) Upon the date set forth in the certificate of amalgamation,

- (a) the amalgamation becomes effective and the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions prescribed in the amalgamation agreement;
- (b) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating corporations;

- (c) the issued capital of the amalgamated corporation is, subject to the decrease provided for in subsection 3 of section 196, equal to the aggregate of the issued capital of each of the amalgamating corporations immediately before the amalgamation becomes effective; and
- (d) the articles of incorporation of each of the amalgamated corporations are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement. 1970, c. 25, s. 197.

**198.**—(1) A corporation incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Minister to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Minister for a certificate continuing it as if it has been incorporated under this Act, and the Minister may issue the certificate of continuation on application supported by such material as appears satisfactory, and the certificate may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the Minister to be fit and proper.

Certificate  
of con-  
tinuation

(2) Upon the date set forth in a certificate of continuation issued under subsection 1, this Act applies to the corporation to the same extent as if it had been incorporated under this Act. 1970, c. 25, s. 198.

Effect of  
certificate  
of con-  
tinuation

**199.**—(1) A corporation incorporated under the laws of Ontario may, if authorized by a special resolution, by the Minister and by the laws of any other jurisdiction, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of that other jurisdiction.

Transfer of  
Ontario  
corporations

(2) The corporation shall file with the Minister a notice of the issue of the instrument of continuation, and on and after the date of the filing of the notice this Act ceases to apply to that corporation.

Notice

(3) This section applies only in respect of a jurisdiction that has legislation in force that permits corporations incorporated under its laws to apply for an instrument of continuation under the laws of Ontario. 1970, c. 25, s. 199.

Application

**200.** All rights of creditors against the property, rights and assets of a corporation amalgamated under section 196 or continued under section 198 and all liens upon its property, rights and assets are unimpaired by such amalgamation or continuation, and all debts, contracts, liabilities and duties of the corporation thenceforth attach to the amalgamated or continued corporation and may be enforced against it. 1970, c. 25, s. 200.

Rights of  
creditors  
preserved



## DISSOLUTION

*Winding Up*Interpre-  
tation

**201.** In sections 203 to 246, "contributory" means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Act. 1970, c. 25, s. 201.

*Voluntary Winding Up*Application  
of ss. 203-  
215

**202.** Sections 203 to 215 apply to corporations being wound up voluntarily. 1970, c. 25, s. 202.

Voluntary  
winding up

**203.**—(1) Where the shareholders of a corporation by a majority of the votes cast at a general meeting duly called for that purpose, or by such greater proportion of the votes cast as the articles provide, pass a resolution requiring the corporation to be wound up, the corporation may be wound up voluntarily.

Appoint-  
ment of  
liquidator

(2) At such meeting the shareholders shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up.

Review of  
remunera-  
tion by  
court

(3) On the application of any shareholder or creditor of the corporation or of the liquidator, the court may review the remuneration of the liquidator and, whether or not the remuneration has been fixed by resolution, the court may fix and determine the remuneration at such amount as it thinks proper.

Publication  
of notice  
of  
winding up

(4) A corporation shall file notice of a resolution requiring the voluntary winding up of the corporation with the Minister within ten days after the resolution has been passed and shall publish the notice in *The Ontario Gazette* within twenty days after the resolution has been passed. 1970, c. 25, s. 203.

Inspectors

**204.** A corporation being wound up voluntarily may, in general meeting, by resolution, delegate to any committee of its shareholders, contributories or creditors, hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. 1970, c. 25, s. 204.

Vacancy in  
office of  
liquidator

**205.** If a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders in general meeting may, subject to any arrangement the corporation may have



entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be called by the continuing liquidator, if any, or by any shareholder or contributory, and shall be deemed to have been duly held if called in the manner prescribed by the articles or by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders of the corporation. 1970, c. 25, s. 205.

**206.** The shareholders of the corporation may by a majority of the votes cast at a general meeting called for that purpose remove a liquidator appointed under section 203, 204 or 205, and in such case shall appoint another liquidator in his stead. 1970, c. 25, s. 206.

Removal of  
liquidator

**207.** A voluntary winding up commences at the time of the passing of the resolution requiring the winding up. 1970, c. 25, s. 207.

Commence-  
ment of  
winding up

**208.** A corporation being wound up voluntarily shall, from the commencement of its winding up, cease to carry on its undertaking, except in so far as may be required as beneficial for the winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidator, or alterations in the status of the shareholders of the corporation, taking place after the commencement of its winding up are void, but its corporate existence and all its corporate powers, notwithstanding that it is otherwise provided by its articles or by-laws, continue until its affairs are wound up. 1970, c. 25, s. 208.

Corporation  
to cease  
business

**209.** After the commencement of a voluntary winding up,

- (a) no action or other proceeding shall be commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

No proceed-  
ings against  
corporation  
after  
voluntary  
winding up  
except  
by leave

except by leave of the court and subject to such terms as the court imposes. 1970, c. 25, s. 209.

**210.—**(1) Upon a voluntary winding up, the liquidator,

- (a) shall settle the list of contributories;
- (b) may, before he has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any

List of  
contribu-  
tories  
and calls

sum that he considers necessary for satisfying the liabilities of the corporation and the costs, charges and expenses of winding up and for adjusting the rights of the contributories among themselves.

List  
*prima facie*  
proof

(2) A list settled by the liquidator under clause *a* of subsection 1 is *prima facie* proof of the liability of the persons named therein to be contributories.

Default  
on calls

(3) The liquidator in making a call under clause *b* of subsection 1 may take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. 1970, c. 25, s. 210.

Meetings of  
corporation  
during  
winding up

**211.**—(1) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the shareholders of the corporation for the purpose of obtaining their approval by resolution, or for any other purpose he thinks fit.

Where  
winding up  
continues  
more than  
one year

(2) Where a voluntary winding up continues for more than one year, the liquidator shall call a general meeting of the shareholders of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and he shall lay before the meeting an account showing his acts and dealings and the manner in which the winding up has been conducted during the immediately preceding year. 1970, c. 25, s. 211.

Arrange-  
ments  
with  
creditors

**212.** The liquidator, with the approval of a resolution of the shareholders of the corporation passed in general meeting or with the approval of the inspectors, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, liquidated or unliquidated, against the corporation or whereby the corporation may be rendered liable. 1970, c. 25, s. 212.

Power to  
compromise  
with  
debtors  
and con-  
tributories

**213.** The liquidator may, with the approval referred to in section 212, compromise all debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person who may be liable to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof. 1970, c. 25, s. 213.

**214.**—(1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and it is proposed to transfer the whole or a portion of its business or property to another body corporate, referred to in this subsection as the purchasing corporation, the liquidator of the first-mentioned corporation, with the approval of a resolution of the shareholders passed in general meeting of the corporation conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part-compensation for the transfer, cash or shares or other like interest in the purchasing corporation or any other body corporate for the purpose of distribution among the creditors or shareholders of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing corporation or any other body corporate.

Power to accept shares, etc., as consideration for sale of property to another body corporate

(2) A transfer made or arrangement entered into by the liquidator under this section is not binding on the shareholders of the corporation that is being wound up unless the shareholders or classes of shareholders, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the shares or of each class of shares represented at the meeting, approve the transfer or arrangement and unless the transfer or arrangement is approved by an order made by the court on the application of the corporation.

Confirmation of sale or arrangement

(3) No resolution is invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. 1970, c. 25, s. 214.

Where resolution not invalid

**215.**—(1) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner prescribed by the articles or by-laws or, in default thereof, in the manner prescribed by this Act for the calling of general meetings of shareholders.

Account of voluntary winding up to be made by liquidator to a general meeting

(2) The liquidator shall within ten days after the holding of the meeting file a notice with the Minister stating that the meeting was held and the date thereof.

Notice of holding of meeting

(3) Subject to subsection 4, on the expiration of three months from the date of the filing of the notice the corporation is dissolved.

Dissolution

Extension

(4) At any time during the three-month period mentioned in subsection 3, the court may, on the application of the liquidator or any other person interested, make an order deferring the date on which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is dissolved on the date so fixed.

Dissolution  
by court  
order

(5) Notwithstanding anything in this Act, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Copy of  
extension  
order to  
be filed

(6) The person on whose application an order was made under subsection 4 or 5 shall within ten days after it was made file with the Minister a certified copy of the order. 1970, c. 25, s. 215.

### *Winding up by Court Order*

Application  
of ss. 217-  
228

**216.** Sections 217 to 228 apply to corporations being wound up by order of the court. 1970, c. 25, s. 216.

Winding up  
by court

**217.** A corporation may be wound up by order of the court,

- (a) where the shareholders by a majority of the votes cast at a general meeting called for that purpose or by such greater proportion of the votes cast as the articles provide pass a resolution authorizing an application to be made to the court to wind up the corporation;
- (b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;
- (c) where it is proved to the satisfaction of the court that the corporation, though it may not be insolvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or
- (d) where in the opinion of the court it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up. 1970, c. 25, s. 217.

Who may  
apply

**218.—**(1) A winding-up order may be made upon the application of the corporation or of a shareholder or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$1,000 or more.

Notice

(2) Except where the application is made by the corporation, four days notice of the application shall be given to the corporation before the making of the application. 1970, c. 25, s. 218.



**219.** The court may make the order applied for, may dismiss the application with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as is considered just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference. 1970, c. 25, s. 219.

Power  
of court

**220.**—(1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property.

Appoint-  
ment of  
liquidator

(2) The court may at any time fix the remuneration of the liquidator.

Remunera-  
tion

(3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy.

Vacancy

(4) A liquidator appointed by the court under this section shall forthwith give to the Minister notice in writing of his appointment and shall, within twenty days of his appointment, publish the notice in *The Ontario Gazette*. 1970, c. 25, s. 220.

Notice of  
appoint-  
ment

**221.** The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint another liquidator in his stead. 1970, c. 25, s. 221.

Removal of  
liquidator

**222.** The costs, charges and expenses of a winding up by order of the court shall be taxed by a taxing officer of the Supreme Court at Toronto. 1970, c. 25, s. 222.

Costs and  
expenses

**223.** Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of the service of notice of the application, and, where the application is made by the corporation, at the time the application is made. 1970, c. 25, s. 223.

Commence-  
ment of  
winding up

**224.** Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order, in which case the list is subject to review by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. 1970, c. 25, s. 224.

Proceedings  
in winding  
up after  
order



Meetings of shareholders of corporation may be ordered

**225.**—(1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders of the corporation to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court.

Order for delivery by contributories and others of property, etc.

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, officer, employee, trustee, receiver, banker or agent of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, documents, records, estate or effects that are in his hands and to which the corporation is *prima facie* entitled.

Inspection of documents and records

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the documents and records of the corporation by its creditors and contributories, and any documents and records in the possession of the corporation may be inspected in conformity with the order. 1970, c. 25, s. 225.

Proceedings against corporation after court winding up

**226.** After the commencement of a winding up by order of the court,

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. 1970, c. 25, s. 226.

Provision for discharge of liquidator and distribution by the court

**227.**—(1) Where the realization and distribution of the property of a corporation being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in his hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

(2) In such case, the court may make an order directing how the documents and records of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court thinks fit. 1970, c. 25, s. 227.

Disposal of  
documents  
and  
records

**228.**—(1) The court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Order for  
dissolution

(2) The person on whose application the order was made shall within ten days after it was made file with the Minister a certified copy of the order. 1970, c. 25, s. 228.

Copy of  
dissolution  
order to  
be filed

### *Winding Up Generally*

**229.** Sections 230 to 246 apply to corporations being wound up voluntarily or by order of the court. 1970, c. 25, s. 229.

Application  
of ss. 230-  
246

**230.** Where there is no liquidator,

Where no  
liquidator

- (a) the court may by order on the application of a shareholder of the corporation appoint one or more persons as liquidator; and
- (b) the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. 1970, c. 25, s. 230.

**231.**—(1) Upon a winding up,

Conse-  
quences of  
winding up

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its debts, obligations and liabilities and, subject thereto, shall distribute the property rateably among the shareholders according to their rights and interests in the corporation;
- (b) in distributing the property of the corporation, debts to employees of the corporation for services performed for it due at the commencement of the winding up or within one month before, not exceeding three months wages and for vacation pay accrued for not more than twelve months under *The Employment Standards Act*, and the regulations thereunder or under a collective agreement made by the corporation, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;

R.S.O. 1970,  
c. 147

- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers.

Distribution  
of property  
R.S.O. 1970,  
c. 470

(2) Section 53 of *The Trustee Act* applies *mutatis mutandis* to liquidators. 1970, c. 25, s. 231.

Payment  
of costs  
and  
expenses

**232.** The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. 1970, c. 25, s. 232.

Powers of  
liquidators

**233.—**(1) A liquidator may,

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;
- (b) carry on the business of the corporation so far as may be required as beneficial for the winding up of the corporation;
- (c) sell the real and personal property, effects and things in action of the corporation by public auction or private sale;
- (d) do all acts and execute, in the name and on behalf of the corporation, all documents, and for that purpose use the seal of the corporation;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in his official name letters of administration of the estate of any deceased contributory and do in his official name any other act that is necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be done conveniently in the name of the corporation; and
- (h) do and execute all such other things as are necessary for winding up the affairs of the corporation and distributing its property.

Bills of  
exchange,  
etc., to be  
deemed  
drawn in  
the course  
of business

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of a corporation has the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business.

(3) Where the liquidator takes out letters of administration or otherwise uses his official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling him to take out such letters or recover such money, to be due to the liquidator himself. 1970, c. 25, s. 233.

Where moneys deemed to be due to liquidator

**234.** Where more than one person is appointed as liquidator, any power conferred by sections 202 to 246 on a liquidator may be exercised by such one or more of such persons as may be determined by the resolution or order appointing them or, in default of such determination, by any number of them not fewer than two. 1970, c. 25, s. 234.

Acts by more than one liquidator

**235.** The liability of a contributory creates a debt accruing due from him at the time his liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. 1970, c. 25, s. 235.

Nature of liability of contributory

**236.** If a contributory dies before or after he has been placed on the list of contributories, his personal representative is liable in due course of administration to contribute to the property of the corporation in discharge of the liability of the deceased contributory and shall be a contributory accordingly. 1970, c. 25, s. 236.

Who liable in case of his death

**237.—**(1) The liquidator shall deposit all moneys that he has belonging to the corporation and amounting to \$100 or more in any chartered bank of Canada or in the Province of Ontario Savings Office or in any trust company or loan corporation that is registered under *The Loan Trust Corporations Act*.

Deposit of moneys

R.S.O. 1970, c. 254

(2) If inspectors have been appointed, the depository under subsection 1 shall be one approved by them.

Approval of bank by inspectors

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in his name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only by order for payment signed by the liquidator and one of the inspectors, if any.

Separate deposit account to be kept; withdrawal from account

(4) At every meeting of the shareholders of the corporation the liquidator shall produce a pass-book or statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production shall be made in the minutes of the meeting, and the absence of such mention is admissible in evidence as *prima facie* proof that the pass-book or statement of account was not produced at the meeting.

Liquidators to produce bank pass-book



Idem

(5) The liquidator shall also produce the pass-book or statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder of the corporation. 1970, c. 25, s. 237.

Proving  
claim  
R.S.O. 1970,  
c. 34

**238.** For the purpose of proving claims, sections 25, 26 and 27 of *The Assignments and Preferences Act* apply *mutatis mutandis*, except that where the word "judge" is used therein, the word "court" as used in this Act shall be substituted. 1970, c. 25, s. 238.

Application  
for  
direction

**239.** Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as the court prescribes have been taken, may by order give its direction in any matter arising in the winding up. 1970, c. 25, s. 239.

Examination  
of persons  
as to  
estate

**240.**—(1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director, officer or employee of the corporation or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court thinks capable of giving information concerning its trade, dealings, estate or effects.

Damages  
against  
delinquent  
directors,  
etc.

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director, officer, employee, liquidator or receiver of the corporation has misapplied or retained in his own hands, or become liable or accountable for, property of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor, shareholder or contributory, examine into the conduct of that person and order him to restore the property so misapplied or retained, or for which he has become liable or accountable, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust, or both, as the court thinks just. 1970, c. 25, s. 240.

Proceedings  
by share-  
holders

**241.**—(1) Where a shareholder of the corporation desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or of the inspectors, if any, refuses or neglects to take such proceeding after being required so to do, the shareholder may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes.



(2) Any benefit derived from a proceeding under subsection 1 belongs exclusively to the shareholder causing the institution of the proceeding for his benefit and that of any other shareholder who has joined him in causing the institution of the proceeding.

Benefits:  
when for  
shareholders

(3) If before the order is granted the liquidator signifies to the court his readiness to institute the proceeding for the benefit of the corporation, the court shall make an order prescribing the time within which he is to do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the corporation. 1970, c. 25, s. 241.

when for  
corporation

**242.** The rights conferred by this Act are in addition to any other right to institute proceedings against any contributory, or against any debtor of the corporation, for the recovery of any sum due from such contributory or debtor or his estate. 1970, c. 25, s. 242.

Rights  
conferred  
by Act  
to be in  
addition  
to other  
powers

**243.** At any time during a winding up, the court, upon the application of a shareholder, creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court thinks fit. 1970, c. 25, s. 243.

Stay of  
winding-up  
proceedings

**244.—**(1) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or his whereabouts is unknown, the liquidator may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and thereupon subsections 5 and 6 of section 248 apply thereto.

Where  
creditor  
unknown

(2) A payment under subsection 1 shall be deemed to be in satisfaction of the debt for the purposes of winding up. 1970, c. 25, s. 244.

Idem

**245.—**(1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders because a shareholder is unknown or his whereabouts is unknown, the share of the property of the corporation of such shareholder may, by agreement with the Public Trustee, be delivered or conveyed by the liquidator to the Public Trustee to be held in trust for the shareholder, and thereupon subsections 5 and 6 of section 248 apply thereto.

Where  
shareholder  
unknown

(2) A delivery or conveyance under subsection 1 shall be deemed to be a distribution to that shareholder of his rateable share for the purposes of the winding up. 1970, c. 25, s. 245.

Idem

Disposal  
of records,  
etc., after  
winding up

**246.**—(1) Where a corporation has been wound up under sections 202 to 245 and is about to be dissolved, its documents and records and those of the liquidator may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under an order.

When  
responsi-  
bility as to  
custody of  
records,  
etc., to  
cease

(2) After the expiration of five years from the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of the documents and records has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. 1970, c. 25, s. 246.

### *Other Dissolution*

Voluntary  
dissolution

**247.** A corporation may be dissolved upon the authorization of,

- (a) a majority of the votes cast at a general meeting of the shareholders of the corporation duly called for the purpose or by such other proportion of the votes cast as the articles provide;
- (b) the consent in writing of all the shareholders entitled to vote at such meeting; or
- (c) all its incorporators or their personal representatives at any time within two years after the date of issuance of its certificate of incorporation where the corporation has not commenced business and has not issued any shares. 1970, c. 25, s. 247.

Articles of  
dissolution  
where  
corporation  
active

**248.**—(1) For the purpose of bringing the dissolution authorized under clause *a* or *b* of section 247 into effect, the corporation shall deliver to the Minister articles of dissolution in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation and verified by affidavit of one of the officers or directors signing the articles of dissolution, setting out,

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause *a* or *b* of section 247;
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection 3 or its creditors or other persons having interests in its debts, obligations or liabilities consent to its dissolution;
- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its shareholders or that it

has distributed its remaining property rateably among its shareholders according to their rights and interests in the corporation or in accordance with subsection 4 where applicable;

- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its head office.

(2) For the purpose of bringing a dissolution authorized under clause *c* of section 247 into effect, the corporation shall deliver to the Minister articles of dissolution in duplicate, signed by all its incorporators or their personal representatives and verified by affidavit of one of them setting out,

Articles of  
dissolution  
where  
corporation  
never  
active

- (a) the name of the corporation;
- (b) the date of the issuance of its certificate of incorporation;
- (c) that the corporation has not commenced business;
- (d) that none of its shares has been issued;
- (e) that dissolution has been duly authorized under clause *c* of section 247;
- (f) that it has no debts, obligations or liabilities;
- (g) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute or that it has distributed its remaining property to the persons entitled thereto;
- (h) that there are no proceedings pending in any court against it; and
- (i) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its head office.

(3) Where a corporation authorizes its dissolution and a creditor is unknown or his whereabouts is unknown, the corporation may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due provision for the debt for the purposes of clause *c* of subsection 1.

Where  
creditor  
unknown

(4) Where a corporation authorizes its dissolution and a shareholder is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share

Where  
shareholder  
unknown

of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a distribution to that shareholder of his rateable share for the purposes of the dissolution.

Power to  
convert

(5) If the share of the property so delivered or conveyed to the Public Trustee under subsection 4 is in a form other than cash, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into cash.

Payment  
to person  
entitled

(6) If the amount paid under subsection 3 or the share of the property delivered or conveyed under subsection 4 or its equivalent in cash, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him. 1970, c. 25, s. 248.

Certificate  
of  
dissolution

**249.**—(1) If the articles of dissolution conform to law, the Minister shall, when all prescribed fees have been paid and all taxes payable by the corporation to the Treasurer of Ontario have been paid,

- (a) endorse on each duplicate of the articles of dissolution the word “Filed” and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the corporation or its agent a certificate of dissolution to which he shall affix the other duplicate.

Effect of  
certificate

(2) The dissolution becomes effective and the corporation is dissolved upon the date set forth in the certificate of dissolution. 1970, c. 25, s. 249.

Cancellation  
of certificate,  
etc., by  
Minister

**250.** Where sufficient cause is shown to the Minister, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any certificate issued by him under this Act, and,

- (a) in the case of the cancellation of a certificate of incorporation, the corporation is dissolved on the date fixed in the order;
- (b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance of the certificate ceases to be in effect from the date fixed in the order. 1970, c. 25, s. 250.



**251.**—(1) Where a corporation is in default in filing an annual return under *The Corporations Information Act*, or a predecessor thereof, the Minister shall send notice of the default to the corporation by mail within one year after the default.

Notice of  
default  
in filing  
returns  
R.S.O. 1970,  
c. 90

(2) Where a corporation is in default in filing an annual return for a period of two years, the Minister may give notice, by registered mail to the corporation or by publication once in *The Ontario Gazette*, that an order dissolving the corporation will be issued unless the corporation files the annual return within one year after the giving of the notice.

Notice of  
dissolution

(3) Upon default in compliance with the notice given under subsection 2, the Minister may by order cancel the certificate of incorporation and, subject to subsection 4, the corporation is dissolved on the date fixed in the order.

Dissolution  
for  
default

(4) Where a corporation is dissolved under subsection 3, the Minister, on the application of any interested person immediately before the dissolution, made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights, privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. 1970, c. 25, s. 251.

Revival

**252.**—(1) Notwithstanding the dissolution of a corporation under section 249, 250 or 251 or by the expiration of the period of its duration,

Suits after  
dissolution

- (a) any action, suit or other proceeding commenced by or against the corporation before its dissolution may be proceeded with as if the corporation had not been dissolved;
- (b) any action, suit or other proceeding may be brought against the corporation within two years after its dissolution as if the corporation had not been dissolved; and
- (c) any property that would have been available to satisfy any judgment, order or other decision if the corporation had not been dissolved remains available for such purpose.

(2) For the purposes of this section, the service of any process on a corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the records of the Department as being a director or officer of the corporation before the dissolution. 1970, c. 25, s. 252.

Service  
after  
dissolution



Liability  
of share-  
holders to  
creditors

**253.**—(1) Notwithstanding the dissolution of a corporation, each of the shareholders among whom its property has been distributed remains liable to its creditors to the extent of the amount received by him upon the distribution, and an action in a court of competent jurisdiction to enforce such liability may be brought against him within two years from the date of the dissolution and not thereafter.

Action  
against  
one share-  
holder as  
representing  
class

(2) Where there are numerous shareholders, the court referred to in subsection 1 may permit an action to be brought against one or more shareholders as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as are found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined. 1970, c. 25, s. 253.

Forfeiture  
of un-  
disposed  
property

**254.** Subject to section 252, any real or personal property of a corporation that has not been disposed of at the date of its dissolution is forfeit to the Crown. 1970, c. 25, s. 254.

#### GENERAL

Notice to  
directors  
and  
shareholders

**255.**—(1) Subject to the articles or by-laws of a corporation,

- (a) a notice or other document required to be given or sent by a corporation to a shareholder or director may be delivered personally or sent by prepaid mail addressed to the shareholder or director at his latest address as shown on the records of the corporation; and
- (b) a notice or other document sent by mail by a corporation to a shareholder or director shall be deemed to be given or sent at the time when it would be delivered in the ordinary course of mail.

Notice to  
corporation

(2) Except where otherwise provided in this Act, a notice or document required to be given or sent to a corporation may be sent to the corporation by prepaid mail at its head office as shown on the records of the Department and shall be deemed to be given or sent at the time when it would be delivered in the ordinary course of mail.

Waiver of  
notice and  
abridgement  
of times

(3) Where a notice is required by this Act to be given, the giving of the notice may be waived or the time for the notice may be waived or abridged with the consent in writing of every person entitled thereto, whether before or after the time prescribed. 1970, c. 25, s. 255.

**256.**—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. Offence, false statements

(2) No person is guilty of an offence under subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading. 1970, c. 25, s. 256. Defence

**257.**—(1) Every person who fails to file with the Minister any document required by this Act to be filed with him is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or, if such person is a body corporate, to a fine of not more than \$20,000. Offence, failure to file

(2) Where a body corporate is guilty of an offence under subsection 1, every director or officer thereof who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000. 1970, c. 25, s. 257. Idem

**258.** No proceeding under section 256 or 257 shall be commenced except with the consent or under the direction of the Minister. 1970, c. 25, s. 258. Consent

**259.**—(1) Except where otherwise provided, every person who commits an act contrary to or fails or neglects to comply with any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or, if such person is a body corporate, to a fine of not more than \$10,000. Offence, general

(2) Where a body corporate is guilty of an offence under subsection 1, every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. 1970, c. 25, s. 259. Idem

**260.**—(1) No proceeding under section 256 or 257, or under section 259 for a contravention of section 161, shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Minister as certified by him. Limitation

Idem

(2) No proceedings under section 259 for a contravention of section 148 shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

Idem

(3) Subject to subsections 1 and 2, no proceeding for an offence under this Act or the regulations shall be commenced more than one year after the time when the subject-matter of the offence arose. 1970, c. 25, s. 260.

Orders for compliance

**261.**—(1) Where a corporation or a director, officer or employee of a corporation does not comply with any provision of this Act, the articles or the by-laws of the corporation, a shareholder or a creditor of the corporation, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, may apply to the court for an order directing the corporation, director, officer or employee, as the case may be, to comply with such provision, and upon such an application the court may make such order or such other order as the court thinks fit.

Idem

(2) Where it appears to the Commission that any person or corporation to which section 117, subsection 1 of section 118 or section 148 applies has failed to comply with or is contravening any such provision, notwithstanding the imposition of any penalty in respect of such non-compliance or contravention, the Commission may apply to the court for an order directing such person or corporation to comply with such provision or for an order restraining such person or corporation from contravening such provision and upon such application the court may make such order or such other order as the court thinks fit. 1970, c. 25, s. 261.

Powers of Minister

**262.** The Minister may delegate in writing any of his duties or powers under this Act to any public servant in the Department. 1970, c. 25, s. 262.

Proof by affidavit

**263.**—(1) The Minister may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise.

Oaths at hearings

(2) For the purpose of holding a hearing under this Act, the Minister may administer oaths to witnesses and require them to give evidence under oath. 1970, c. 25, s. 263.

Publication of notices in *The Ontario Gazette*

**264.** The Minister shall cause notice to be published forthwith in *The Ontario Gazette*,

- (a) of the issue of every certificate under section 5, 8, 31, 191, 195, 197, 198 or 249;

- (b) of the issue of every order under section 161, 250 or 251;
- (c) of the filing of a certified copy of an order under subsection 6 of section 215 or subsection 2 of section 228; and
- (d) of the filing of a notice by a liquidator under subsection 2 of section 215 or by a corporation under subsection 4 of section 203. 1970, c. 25, s. 264.

**265.**—(1) Upon payment of the prescribed fee, any person is entitled to examine any document filed with or issued by the Minister under this Act, and to make extracts therefrom. Searches

(2) Upon payment of the prescribed fee, the Minister shall furnish any person with a certificate as to whether or not a document has been filed with or issued by him under this Act or any predecessor thereof or with a certified copy of any such document. 1970, c. 25, s. 265. Certifications by Minister

**266.**—(1) Where this Act requires or authorizes the Minister to issue a certificate or certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Department as is designated by the regulations. Execution of certificates of Minister

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under subsection 1, or any certified copy, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof of the facts so certified without proof of the seal or of the signature or the official position of the person appearing to have signed the certificate. 1970, c. 25, s. 266. Certificates as evidence

**267.**—(1) Where the Minister refuses to file any articles or any other document required by this Act to be filed by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor. Notice of refusal to file

(2) Where, within six months after the delivery to the Minister of articles or other document referred to in subsection 1, the Minister has not filed or refused to file such articles or other document, he shall be deemed for the purposes of section 268 to have refused to file it. 1970, c. 25, s. 267. Failure to act deemed refusal

**268.**—(1) Any person who feels aggrieved by a decision of the Minister to, Appeal from Minister

- (a) refuse to file articles or any other document or to issue any certificate required by this Act to be filed or issued;



- (b) issue or refuse to issue a certificate of amendment under subsection 2, 3 or 4 of section 8; or
- (c) issue an order under section 250,

may appeal the decision to the Court of Appeal.

Form of  
appeal

(2) Every appeal shall be by notice of motion sent by registered mail to the Minister within thirty days after the mailing of the notice of the decision, and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, provided that the Rules Committee may vary or amend such practice and procedure or may prescribe the practice and procedure that shall be applicable to appeals taken under this Act.

Certificate  
of  
Minister

(3) The Minister shall certify to the Registrar of the Supreme Court,

- (a) the decision of the Minister, together with a statement of the reasons therefor;
- (b) the record of any hearing; and
- (c) all written submissions to the Minister or other material that is relevant to the appeal.

Representa-  
tion

(4) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Order of  
Court  
of Appeal

(5) Where an appeal is taken under this section, the Court of Appeal may by its order direct the Minister to make such decision or to do such other act as the Minister is authorized and empowered to do under this Act and as the court thinks proper, having regard to the material and submissions before it and to this Act, and the Minister shall make such decision or do such act accordingly.

Minister  
may make  
further  
decision

(6) Notwithstanding an order of the Court of Appeal, the Minister has power to make any further decision upon new material or where there is a material change in the circumstances, and every such decision is subject to this section. 1970, c. 25, s. 268.

Hearings of  
Commis-  
sion  
R.S.O. 1970,  
c. 88

**269.**—(1) Section 5 of *The Securities Act* applies, so far as possible, to hearings of the Commission under this Act.

Appeal  
from  
Commission

(2) Any person who feels aggrieved by a decision to the Commission under this Act may appeal the decision to the Court of Appeal and subsections 2 to 6 of section 29 of *The Securities Act* apply to the appeal. 1970, c. 25, s. 269.

Appeal from  
court

**270.** An appeal lies to the Court of Appeal from any order made by the court under this Act. 1970, c. 25, s. 270.



**271.** The Lieutenant Governor in Council may make regula- Regulations  
tions respecting any matter that he considers necessary relating  
to the incorporation, conduct and dissolution of corporations  
including, without limiting the generality of the foregoing, regula-  
tions,

- (a) respecting names of corporations or classes thereof, objects of corporations, authorized capital of corporations, the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares or classes of shares of corporations, or any other matter pertaining to articles or the filing thereof;
- (b) requiring the payment of fees for any matter that the Minister is required or authorized to do under this Act, and prescribing the amounts thereof;
- (c) prescribing any matter required by this Act to be prescribed by the regulations;
- (d) designating officers of the Department for the purposes of paragraph 7 of subsection 1 of section 1 and section 266;
- (e) respecting the form and content of the reports of insiders required to be filed under section 148;
- (f) respecting the form and content of information circulars required by section 118. 1970, c. 25, s. 271.

**272.**—(1) Any provision in the letters patent, supplementary letters patent or by-laws of a corporation that was valid immediately before the 1st day of January, 1971, except a by-law that contravenes section 147, continues to be valid and in effect, but any additions or amendments thereto or deletions therefrom shall be made in accordance with this Act. Continu-  
ance of  
letters  
patent, etc.

(2) The provisions of *The Corporations Act* relating to the liability of the holder of shares that are not fully paid and to the enforcement of such liability continue to apply in respect of shares that are not fully paid on the 1st day of January, 1971. 1970, c. 25, s. 272, *amended*. Continu-  
ance re  
shares not  
fully paid  
R.S.O. 1970,  
c. 89



## CHAPTER 54

## The Business Records Protection Act

**1.** No person shall, pursuant to or under or in a manner that would be consistent with compliance with any requirement, order, direction or subpoena of any legislative, administrative or judicial authority in any jurisdiction outside Ontario, take or cause to be taken, send or cause to be sent or remove or cause to be removed from a point in Ontario to a point outside Ontario, any account, balance sheet, profit and loss statement or inventory or any resume or digest thereof or any other record, statement, report, or material in any way relating to any business carried on in Ontario, unless such taking, sending or removal,

Business records not to be taken from Ontario

(a) is consistent with and forms part of a regular practice of furnishing to a head office or parent company or organization outside Ontario material relating to a branch or subsidiary company or organization carrying on business in Ontario;

(b) is done by or on behalf of a company or person as defined in *The Securities Act*, carrying on business in Ontario and as to a jurisdiction outside Ontario in which the securities of the company or person have been qualified for sale with the consent of the company or person;

R.S.O. 1970, c. 426

(c) is done by or on behalf of a company or person as defined in *The Securities Act*, carrying on business in Ontario as a dealer or salesman as defined in *The Securities Act*, and as to a jurisdiction outside Ontario in which the company or person has been registered or is otherwise qualified to carry on business as a dealer or salesman, as the case may be; or

(d) is provided for by or under any law of Ontario or of the Parliament of Canada. R.S.O. 1960, c. 44, s. 1, *amended*.

**2.—(1)** Where the Minister of Justice and Attorney General or any person having an interest in a business as mentioned in section 1 has reason to believe that a requirement, order, direction, or subpoena as mentioned in section 1 has been or is likely to be made, issued or given in relation to such business, he may apply to a judge or local judge of the Supreme Court in chambers for an order requiring any person, whether or not such person is named in the requirement, order, direction, or subpoena, to furnish an

Undertaking and recognition

undertaking and recognizance for the purpose of ensuring that such person will not contravene section 1 and the judge may make such order as he considers proper. R.S.O. 1960, c. 44, s. 2 (1), *amended*.

Contempt  
of court

(2) Every person who, having received notice of an application under this section, contravenes this Act shall be deemed to be in contempt of court and is liable to one year's imprisonment.

Idem

(3) Every person required to furnish an undertaking or recognizance who contravenes this Act is in contempt of court and in addition to any penalty provided by the recognizance is liable to one year's imprisonment. R.S.O. 1960, c. 44, s. 2 (2, 3).

Procedure

**3.** The practice and procedure of the Supreme Court applies to every application made under this Act. R.S.O. 1960, c. 44, s. 3.

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## CHAPTER 55

### The Cancer Act

#### PART I

##### THE ONTARIO CANCER TREATMENT AND RESEARCH FOUNDATION

**1.** The corporation known as The Ontario Cancer Treatment and Research Foundation, referred to in this Act as “the Foundation”, is continued. Foundation continued  
R.S.O. 1960, c. 45, s. 1.

**2.—(1)** The Foundation shall consist of not fewer than seven Members members who shall be appointed by the Lieutenant Governor in Council and who shall hold office during pleasure.

(2) The Lieutenant Governor in Council may fill any vacancies that occur from time to time in the membership of the Vacancies Foundation.

(3) Five of the members of the Foundation constitute a Quorum quorum for the transaction of business. R.S.O. 1960, c. 45, s. 2.

**3.—(1)** The Lieutenant Governor in Council may appoint one Chairman, vice-chairman of the members to be chairman of the Foundation and another of the members to be vice-chairman of the Foundation.

(2) The chairman shall preside at all meetings of the Foundation at which he is present and in his absence the vice-chairman shall preside and in the absence of both the chairman and the vice-chairman the members present shall elect one of themselves to preside. Presiding officer  
R.S.O. 1960, c. 45, s. 3.

**4.** Subject to the approval of the Lieutenant Governor in Council, the Foundation may appoint an advisory medical board Advisory medical board consisting of such persons representative of the medical faculties of the University of Toronto, Queen’s University, The University of Western Ontario and the Université d’Ottawa, and of radiotherapists, surgeons, pathologists, internists, physicists and the medical profession generally as the Foundation considers appropriate. R.S.O. 1960, c. 45, s. 4.

**5.** The object of the Foundation is to establish and conduct a Object program of research, diagnosis and treatment in cancer, including,



- (a) the establishment, maintenance and operation of research, diagnostic and treatment centres in general hospitals or elsewhere;
- (b) the transportation of patients and escorts to its treatment centres or to the hospital of the Institute for diagnosis, treatment or investigation;
- (c) the establishment, maintenance and operation of hostels in connection with its treatment centres or the hospital of the Institute;
- (d) the laboratory and clinical investigation of cancer problems;
- (e) the co-ordination of facilities for treatment;
- (f) the adequate reporting of cases and the recording and compilation of data;
- (g) the education of the public in the importance of early recognition and treatment;
- (h) the providing of facilities for undergraduate and post-graduate study;
- (i) the training of technical personnel; and
- (j) the providing and awarding of research fellowships. R.S.O. 1960, c. 45, s. 5.

## Agreements

**6.** Subject to the approval of the Lieutenant Governor in Council, the Foundation may make agreements with universities, medical associations, hospitals and persons for the purpose of carrying out the object of the Foundation. R.S.O. 1960, c. 45, s. 6.

## Staff

**7.** The Foundation may employ a director and officers, clerks and servants and may engage the services of experts and other persons and may pay such director, officers, clerks, servants, experts or other persons such remuneration as it considers proper out of its funds. R.S.O. 1960, c. 45, s. 7.

## By-laws

**8.** Subject to the approval of the Lieutenant Governor in Council, the Foundation may make such by-laws, rules or regulations as are considered expedient for the administration of its affairs. R.S.O. 1960, c. 45, s. 8.

## Funds

**9.** The funds of the Foundation consist of moneys received by it from any source including moneys appropriated for its use by the Parliament of Canada or the Legislature of Ontario, and the Foundation may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it considers proper. R.S.O. 1960, c. 45, s. 9.

**10.** The members of the Foundation and its medical advisory board shall be paid such amounts for travelling and other expenses as the Foundation, subject to the approval of the Lieutenant Governor in Council, may determine from time to time. R.S.O. 1960, c. 45, s. 10. Expenses

**11.** The accounts of the Foundation shall be audited annually by the Provincial Auditor or by such qualified auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the Foundation. R.S.O. 1960, c. 45, s. 11. Audit

**12.—(1)** The Foundation shall after the close of each fiscal year make a report upon its affairs during the preceding year to the Minister of Health and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the Foundation during the preceding year. Annual report

(2) The Minister of Health shall file the report with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 45, s. 12. Idem

**13.—(1)** Subject to the approval of the Lieutenant Governor in Council, the Foundation may acquire by purchase or lease, or may enter upon, take and use without the consent of the owner thereof, any land and buildings that are considered suitable for the purposes of the Foundation and may erect buildings, acquire and install machinery and equipment and purchase all such instruments, materials and appliances and other matters and things that are considered necessary. Power to expropriate land and erect buildings

(2) Whenever the Foundation exercises the power to enter upon, take or use lands without the consent of the owner thereof, *The Expropriations Act* applies. R.S.O. 1960, c. 45, s. 13, *amended*. Application of R.S.O. 1970, c. 154

**14.** Subject to the approval of the Lieutenant Governor in Council, the Foundation may apply for, or acquire by purchase, assignment or otherwise, rights in any patent relating to any remedy for the prevention or cure of cancer and may sell and dispose thereof or of any interest therein, and grant or assign any rights that have been acquired by the Foundation thereunder. R.S.O. 1960, c. 45, s. 14. Right to acquire patents, etc.

**15.** The real and personal property, business and income of the Foundation is not subject to taxation for municipal or provincial purposes. R.S.O. 1960, c. 45, s. 15. Property not liable to assessment

## PART II

## THE ONTARIO CANCER INSTITUTE

Institute  
continued

**16.** The corporation known as The Ontario Cancer Institute, referred to in this Act as “the Institute”, is continued. R.S.O. 1960, c. 45, s. 16.

Members

**17.**—(1) The Institute shall consist of fifteen persons appointed by the Lieutenant Governor in Council, namely,

- (a) five persons representing the Foundation, one of whom shall be the chairman of the Foundation;
- (b) three persons representing The Governors of the University of Toronto;
- (c) one person representing the Board of Trustees of the Toronto General Hospital;
- (d) one person representing the Board of Trustees of The Hospital for Sick Children;
- (e) one person representing the governing body of St. Michael's Hospital;
- (f) one person representing the Board of Governors of The Toronto Western Hospital;
- (g) one person representing the Board of Governors of the Women's College Hospital;
- (h) one person representing the Board of Governors of the Toronto Wellesley Hospital;
- (i) one person representing the Board of Governors of New Mount Sinai Hospital,

who shall hold office during pleasure. 1968-69, c. 7, s. 1.

Vacancies

(2) The Lieutenant Governor in Council may fill any vacancies that occur from time to time in the membership of the Institute in accordance with the method of representation prescribed in this section.

Quorum

(3) Five of the members of the Institute constitute a quorum for the transaction of business. R.S.O. 1960, c. 45, s. 17 (2, 3).

Chairman

**18.** The Lieutenant Governor in Council may appoint one of the representatives of the Foundation as chairman of the Institute. R.S.O. 1960, c. 45, s. 18.

Advisory  
medical  
board

**19.** Subject to the approval of the Lieutenant Governor in Council, the Institute may appoint an advisory medical board consisting of legally qualified medical practitioners, scientists and other persons. 1967, c. 9, s. 1.

**20.** The object of the Institute is to maintain, manage and Object operate a provincial hospital with facilities for cancer research, diagnosis and treatment. R.S.O. 1960, c. 45, s. 20.

**21.** Subject to the approval of the Lieutenant Governor in Agreements Council, the Institute may make agreements with the Foundation or with any university, medical association, hospital or person for the purpose of carrying out the object of the Institute. R.S.O. 1960, c. 45, s. 21.

**22.** The Institute may employ a director and such staff as may Staff from time to time be required for the purposes of the hospital and may pay such director and staff such remuneration as it considers proper out of its funds. R.S.O. 1960, c. 45, s. 22.

**23.** Subject to the approval of the Lieutenant Governor in By-laws Council, the Institute may make such by-laws, rules or regulations as are considered expedient for the administration of its affairs. R.S.O. 1960, c. 45, s. 23.

**24.**—(1) The funds of the Institute consist of moneys received Funds by it from any source, including the Foundation, and the Institute may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it considers proper.

(2) The Institute shall annually prepare and submit to the Estimates Foundation the estimates of the moneys required for its purposes during the ensuing fiscal year. R.S.O. 1960, c. 45, s. 24.

**25.** The members of the Institute and its medical advisory Expenses board shall be paid such amounts for travelling and other expenses as the Institute, subject to the approval of the Lieutenant Governor in Council, determines from time to time. R.S.O. 1960, c. 45, s. 25.

**26.** The accounts of the Institute shall be audited annually by Audit the Provincial Auditor or by such qualified auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the Institute. R.S.O. 1960, c. 45, s. 26.

**27.**—(1) The Institute shall after the close of each fiscal year Annual report make a report upon its affairs during the preceding year to the Minister of Health and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the Institute during the preceding year.

Idem

(2) The Minister of Health shall file the report with the Provincial Secretary who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 45, s. 27.

Property  
not liable  
to assess-  
ment

**28.** The real and personal property, business and income of the Institute is not subject to taxation for municipal or provincial purposes. R.S.O. 1960, c. 45, s. 28.

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CHAPTER 56

The Cancer Remedies Act

1. In this Act,

Interpre-  
tation

- (a) “Commission” means The Commission for the Investi-  
gation of Cancer Remedies;
- (b) “Minister” means the Minister of Health. R.S.O.  
1960, c. 46, s. 1.

2.—(1) The Lieutenant Governor in Council may appoint one or more persons as a commission known as “The Commission for the Investigation of Cancer Remedies”

Commis-  
sion, ap-  
point-  
ment

(2) The Commission is a body corporate.

Status

(3) The member or members of the Commission shall hold office during the pleasure of the Lieutenant Governor in Council.

Term of  
office

(4) Where there is more than one member of the Commission,

Chairman;  
quorum

- (a) the Lieutenant Governor in Council may appoint one of  
the members of the Commission to be chairman; and
- (b) a majority of the members of the Commission consti-  
tutes a quorum and a majority vote of the members  
present at any meeting of the Commission determines  
any question. R.S.O. 1960, c. 46, s. 2.

3.—(1) The objects of the Commission are to investigate, approve, disapprove, encourage or report upon any substance or method of treatment that is believed to be, or likely to be, or is advertised, held out to be or used as a remedy for cancer, and the Commission may take such measures as it considers necessary to accomplish its objects.

Objects

(2) The funds of the Commission consist of the moneys received by it from any source, including the moneys appropriated for its use by the Parliament of Canada, the Legislature, or the King George V Silver Jubilee Cancer Fund, and the Commission may disburse, expend or otherwise deal with any of its funds as it considers proper.

Funds

(3) Subject to the approval of the Lieutenant Governor in Council, the Commission may enter into agreements with any university, medical association, hospital or other association, corporation or person for the purpose of carrying out its objects.

Commission  
may enter  
into agree-  
ments

Officers,  
clerks and  
servants

(4) The Commission may employ officers, clerks and servants and may engage the services of experts and other persons and may pay any such officer, clerk, servant, expert or other person such remuneration as it considers proper out of its funds.

Remunera-  
tion of  
members of  
Commission

(5) The members of the Commission shall be paid such remuneration out of its funds as the Lieutenant Governor in Council may determine. R.S.O. 1960, c. 46, s. 3.

Commission  
to furnish  
financial  
statement

**4.** The Minister may require the Commission to furnish him with a financial statement showing all moneys received and disbursed by it, and may require the Provincial Auditor or any other qualified auditor to conduct an audit of its funds and the cost of such audit shall be paid out of its funds. R.S.O. 1960, c. 46, s. 4.

Submission  
of samples  
of treatment

**5.—(1)** The Commission may require any person who advertises, offers for sale, holds out, distributes, sells or administers either free of charge or for gain, hire or hope of reward, any substance or method of treatment as a remedy for cancer to submit samples of such substance or a description of such treatment and samples of any substance used with such treatment to the Commission together with the formula of such substance and such other information pertaining to such substance or method of treatment as the Commission may determine.

Information  
not to be  
divulged

(2) The Commission shall not divulge any information relating to the composition or formula of any substance received by it, except to a person authorized by it to investigate the substance.

Oath of  
secrecy

(3) The Commission may administer an oath in such form and manner as it may determine, binding any such person not to divulge information furnished to him. R.S.O. 1960, c. 46, s. 5.

Investigation  
of  
treatment

**6.** Where a substance or method of treatment is submitted to the Commission under section 5, the Commission shall cause the substance or method of treatment to be investigated and, upon the conclusion of the investigation, shall make a determination or finding as to merit or value as a remedy for cancer of the substance or method of treatment, but the Commission may at any time before concluding its investigation make such determination or finding of a temporary nature as it considers proper, and every determination or finding of the Commission shall be recorded in its minutes. R.S.O. 1960, c. 46, s. 6.

Reports

**7.** The Commission shall make a report of any determination or finding relating to a substance or method of treatment,

(a) to the Minister; and

(b) to the person who submitted the substance or method to the Commission for investigation,

and the Minister may publish the report in such manner as he considers proper. R.S.O. 1960, c. 46, s. 7.

**8.** No action in libel or slander or otherwise lies or shall be instituted against the Minister, The Commission, any member of the Commission or any officer, clerk or servant employed by the Commission or any expert or other person engaged by the Commission, whether in the public or private capacity of the Minister, member, officer, clerk, servant, expert, or other person, in respect of any act or omission in connection with the administration or carrying out of this Act. R.S.O. 1960, c. 46, s. 8.

**9.** Every person who contravenes any of the provisions of this Act or who fails or neglects to obey any order, direction or requirement of the Commission is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than \$100 and not more than \$500 and for any subsequent offence to a fine of not less than \$500 and not more than \$2,500. R.S.O. 1960, c. 46, s. 9.

Action  
against  
Commission

Offence

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## CHAPTER 57

## The Cemeteries Act

## 1. In this Act,

Interpre-  
tation

- (a) “Cemeteries Advisory Board” means the advisory board established under the regulations made under a predecessor of this Act;
- (b) “cemetery” means land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried;
- (c) “columbarium” means a structure designed for the purpose of storing the ashes of human remains that have been cremated;
- (d) “crematorium” means a building fitted with the proper appliances for the purposes of the cremation of human remains, and includes everything incidental or ancillary thereto;
- (e) “Department” means the Department of Health;
- (f) “inspector” means an inspector designated under this Act;
- (g) “local board” means the local board of health of a municipality in which it is proposed to establish or in which there is a cemetery;
- (h) “mausoleum” means a building or other structure used as a place for the interment of the dead in sealed crypts or compartments;
- (i) “Minister” means the Minister of Health;
- (j) “owner” means a person who owns, controls or manages a cemetery, mausoleum or columbarium;
- (k) “perpetual care” means the preservation, improvement, embellishment and maintenance in perpetuity in a proper manner of lots and plots in a cemetery or of compartments in a mausoleum or columbarium;
- (l) “perpetual care funds” means the funds and property received by an owner for the purpose of providing perpetual care generally of a cemetery, mausoleum or columbarium or of any particular part thereof;
- (m) “pre-need assurance fund” means the moneys set aside by the owner out of the amount received from the sale of



cemetery supplies and cemetery services as defined by the regulations;

- (*n*) "regulations" means the regulations made by the Lieutenant Governor in Council under this Act. R.S.O. 1960, c. 47, s. 1; 1961-62, c. 12, s. 1.

Inspectors

**2.** The Minister may designate one or more officers of the Department to be inspectors for the purposes of this Act and the regulations with such powers and duties as the regulations prescribe. R.S.O. 1960, c. 47, s. 2.

Cemeteries  
Advisory  
Board

**3.** The Lieutenant Governor in Council may make regulations respecting the Cemeteries Advisory Board and prescribing its powers and duties. R.S.O. 1960, c. 47, s. 3.

Conflict with  
provisions  
in other Acts

**4.** Where the provisions of a general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. R.S.O. 1960, c. 47, s. 4.

Establish-  
ment of  
cemeteries,  
etc.

**5.** No cemetery shall be established or enlarged, and no crematorium, columbarium or mausoleum shall be established, enlarged, altered or used, until the approval of the Department has been obtained in the manner hereinafter provided. R.S.O. 1960, c. 47, s. 5.

Application  
and  
material

**6.** An application for such approval shall be made in writing to the council of the municipality, and the applicant shall submit therewith a detailed plan and description in duplicate of the land proposed to be acquired or used for cemetery, crematorium, columbarium or mausoleum purposes, together with such other information as the regulations require. R.S.O. 1960, c. 47, s. 6.

Transmission  
to  
Department

**7.** The application and one of the duplicates of the plan and description of the land and all other material filed with the application shall be transmitted to the Department together with a statement of the opinion of the council of the municipality thereon. R.S.O. 1960, c. 47, s. 7.

Deposit  
to assure  
maintenance

**8.—(1)** No application for the establishment or enlargement of a cemetery, columbarium or mausoleum to be operated for gain or profit shall be approved unless the owner has set aside as a deposit to assure the maintenance of the cemetery, columbarium or mausoleum, as the case may be, the sum prescribed by the regulations and in the manner so prescribed.

Transfer  
to owner

**(2)** The sum set aside as a deposit under subsection 1 may be returned to the owner upon such terms and conditions as the regulations prescribe. 1962-63, c. 10, s. 1.

**9.**—(1) The approval of the Department shall be by order in writing signed by the Minister or Deputy Minister and shall contain a sufficient description of the cemetery, crematorium, columbarium or mausoleum proposed to be established or of the land that is to be annexed to it. Approval

(2) The order may be registered in the proper registry or land titles office, and upon its registration the cemetery, crematorium, columbarium or mausoleum may be established or enlarged as the order directs. Registration

(3) The approval of the Department may be revoked by an order in writing signed by the Minister or Deputy Minister, and thereafter the land mentioned in the order shall not be used for the interment of the dead until a further approval has been issued. R.S.O. 1960, c. 47, s. 9. Revocation of approval

**10.** No cemetery that is to be operated for gain or profit shall be used for the interment of the dead until approval of the Department therefor has been obtained. R.S.O. 1960, c. 47, s. 10. Approval to inter

**11.** Every person who establishes, enlarges or uses a cemetery, or who establishes, enlarges, alters or uses a crematorium, columbarium or mausoleum, without the approval of the Department, is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500. R.S.O. 1960, c. 47, s. 11. Offence

**12.** The expenses of the Department shall be paid by the applicant. R.S.O. 1960, c. 47, s. 12. Expenses

**13.**—(1) No person shall offer for sale or sell lots in a cemetery unless, Licensing of salesmen

(a) he is licensed so to do under the regulations; and

(b) the provisions of the sale contracts have been approved by the Minister.

(2) This section does not apply in respect of the sale of lots in a cemetery or class of cemetery exempt therefrom under the regulations. R.S.O. 1960, c. 47, s. 13. Exemption

**14.** The provisions of this Act designated by the regulations apply *mutatis mutandis* to crematoria, columbaria and mausolea. R.S.O. 1960, c. 47, s. 14. Application of designated provisions to crematoria, etc.

Regulations

**15.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) respecting the burial, disinterment, removal and disposal of the bodies or other remains of deceased persons;
- (b) respecting the plans, surveys, arrangement, condition, care, sale and conveyancing of lots, plots and other cemetery grounds and property;
- (c) respecting the erection, arrangement and removal of tombs, vaults, monuments, gravestones, markers, copings, fences, hedges, shrubs, plants and trees in cemeteries;
- (d) fixing the amount and type of bond or insurance that shall be furnished or carried by persons selling cemetery lots;
- (e) requiring owners of cemeteries to permit the planting, installation and erection of cemetery supplies by owners of lots and such other persons and upon such conditions as the regulations prescribe;
- (f) defining cemetery services and cemetery supplies for the purposes of the regulations;
- (g) governing and regulating the charges for the sale and care of lots and for cemetery services and supplies;
- (h) regulating or restricting or prohibiting the sale or offering for sale of cemetery lots and prescribing the method, manner and conditions under which cemetery lots may be sold or offered for sale;
- (i) prescribing the sum that shall be set aside as a deposit to assure the maintenance of a cemetery, columbarium or mausoleum to be operated for gain or profit, the manner in which such sum shall be set aside and the terms and conditions upon which such sum may be returned;
- (j) prescribing the portion of the consideration of each sale that must be paid into the pre-need assurance fund, the portion that may be withdrawn therefrom and the terms and conditions upon which such withdrawal may be made;
- (k) respecting the collection, amounts to be collected and investment of funds for perpetual care and maintenance of cemeteries;
- (l) requiring the filing or registration of plans of cemeteries and prescribing the contents and details of the plans and requiring that burials be made in accordance with the plan;

- (m) requiring that the by-laws, rules or regulations made by the owners of cemeteries be approved by the Minister;
- (n) requiring information with regard to cemeteries and the care and management thereof to be furnished to the Minister;
- (o) requiring cemetery owners to supply financial and other information prescribed by the regulations to owners of cemetery lots and such other persons as the regulations prescribe;
- (p) prescribing the amount of money that shall be set aside for perpetual care by the owner, and regulating the method and manner of the computation of the amount of money so to be set aside, and prescribing the matters or things in and about the cemetery, columbarium or mausoleum upon which the owner may expend the income from perpetual care funds;
- (q) requiring and prescribing records in connection with the establishment, maintenance and operation of cemeteries to be kept by owners, and prescribing the times at which the records shall be submitted to the Minister and the information that shall accompany the records;
- (r) prescribing the powers and duties of inspectors;
- (s) requiring the licensing of persons who offer for sale or sell lots in a cemetery and prescribing the terms and conditions upon which a licence may be issued, the fees payable therefor, the form and term thereof, and the terms and conditions upon which any such licence may be renewed, suspended or revoked;
- (t) exempting any cemetery, mausoleum or columbarium or any class thereof from the application of section 13, 27, 28 or 29, and any cemetery that is not operated for gain from any other provisions of this Act, and prescribing the conditions under which such cemetery, mausoleum or columbarium or any class thereof shall be exempt therefrom, and any such regulation may have a retroactive effect;
- (u) classifying cemeteries, mausolea and columbaria; and
- (v) designating the provisions of this Act that shall apply *mutatis mutandis* to crematoria, columbaria and mausolea,

and any such regulation may be general in its application or may be made applicable specially to any particular locality or cemetery. R.S.O. 1960, c. 47, s. 15 (1); 1962-63, c. 10, s. 2.



## Offence

(2) Every person who contravenes any of the provisions of the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 for a first offence and not more than \$500 for any subsequent offence. R.S.O. 1960, c. 47, s. 15 (2).

Powers and  
duties of  
local boards

**16.**—(1) It is the duty of the local board and it has power,

- (a) to enter into and upon and to visit and inspect any cemetery within the limits of the municipality and to examine and inquire into the condition of the cemetery;
- (b) to see that the provisions of this Act and the regulations are observed and to enforce their observance by prosecution for the penalties imposed by this Act;
- (c) to call for and collect such statistical and other information as the Department requires with regard to cemeteries and the care and management thereof;
- (d) to report to the Department from time to time upon the enforcement and administration of this Act; and
- (e) to see that every cemetery is properly fenced, kept clear of weeds and otherwise cared for in a proper manner and in accordance with this Act and the regulations.

Delegation  
of power

(2) Any of the powers conferred upon a local board by subsection 1 may be delegated to any person by the local board.

Exemption  
of certain  
cemeteries

(3) Where the Lieutenant Governor in Council is of opinion that a cemetery is being supervised and managed in a proper manner by a municipal council, board of park management or cemetery board, he may exempt it from any of the provisions of this section. R.S.O. 1960, c. 47, s. 16.

Payment for  
services

**17.** The treasurer of the municipality shall forthwith upon demand pay the amount of any account for services performed under the direction of the local board, or for any expenditure incurred by or on behalf of the local board in carrying out the provisions of this Act or the regulations, after the board has by resolution approved the account and after a copy of the resolution certified by the chairman and secretary has been filed in the office of the treasurer. R.S.O. 1960, c. 47, s. 17.

Unorganized  
territory

**18.** In territory without municipal organization, any of the powers conferred upon a local board by this Act may be exercised by the Department, any medical officer of health or any public health inspector. R.S.O. 1960, c. 47, s. 18.



**19.** The Lieutenant Governor in Council may appoint any person to investigate and report upon the conditions of any cemetery and the conduct of its affairs or those of any corporation or trust or individual being the owner or in control of a cemetery and to examine and audit the books of account of any cemetery, and any person so appointed has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 47, s. 19.

Investigation  
and report

R.S.O. 1970,  
c. 379

**20.** All lots or plots in a cemetery when numbered and conveyed as burial sites or lots are indivisible, but may afterwards be held and owned in undivided shares. R.S.O. 1960, c. 47, s. 20.

Lots  
indivisible

**21.** When a lot in a cemetery or a compartment in a mausoleum or columbarium has been sold for a burial site or for a deposit therein of human remains, it is not necessary to register the conveyance nor shall such lot or compartment be affected by any judgment, execution, mortgage or encumbrance. R.S.O. 1960, c. 47, s. 21.

Registration  
of convey-  
ance not  
necessary

**22.** The owner of a cemetery may repurchase any lot previously sold or conveyed or any part of such lot in which no interment has been made. R.S.O. 1960, c. 47, s. 22.

Repurchas-  
ing lots

**23.**—(1) The owner may take and hold by grant, assignment, devise, bequest or otherwise any money or securities and apply the same in preserving, improving and embellishing the cemetery, upon the condition and in consideration of assuming and undertaking the duty and obligation of preserving and maintaining in a proper manner in perpetuity any particular lot, tomb, monument or enclosure in the cemetery or in any other cemetery or burying ground in the same municipality or in any other municipality in the same county or district, and any person may make such grant, assignment, devise or bequest upon such condition and for such consideration.

Owner may  
accept  
devise,  
gifts, etc.

(2) The owner may also take and hold by grant, assignment or devise from the owner thereof any lot in the cemetery for the purpose of maintaining it in perpetuity or otherwise in the manner and subject to the provisions of the instrument of grant, assignment or devise.

Taking lots  
by grant,  
assignment,  
or devise

(3) The owner may agree to preserve and maintain in a proper manner in perpetuity the particular lot, tomb, monument or enclosure in any cemetery designated in such grant, assignment, devise, bequest or agreement.

May agree  
to keep lots,  
etc., in good  
condition

(4) Personal representatives or trustees may pay over and transfer money or securities in their hands that they are authorized or directed to apply for or toward the purposes mentioned in this section.

Payment  
over of  
bequest

Investment  
of funds

(5) For the purpose of securing the due performance of such agreement, the owner shall invest the money received under the agreement in the same manner as trustees are authorized to invest trust money and out of the income of such investment perform his obligations under the agreement.

Notice to  
owner of  
bequest or  
devise for  
perpetual  
care

(6) Every executor and trustee of an estate, the testator or settlor of which has provided money or other property for the care and upkeep of a plot or plots or other part of a cemetery, and the registrar of the surrogate court from which probate issues, shall notify the owner of the cemetery of the amount of money or other property so provided for the care and upkeep or other benefits conferred upon the cemetery immediately upon the issue of probate or when the executor or trustee assumes the burden of the administration of the estate.

Payment or  
delivery to  
owner of  
property  
devised for  
perpetual  
care

(7) The owner may call upon an executor or trustee of the estate of a testator or settlor who has bequeathed or set aside or provided any money or other property for the purpose of the upkeep or care of any lot or plot or part of a cemetery of such owner for the payment or delivery over to the owner of such money or property to be invested as hereinbefore provided, the income thereof to be used by the owner as provided in the will of the testator or instrument of the settlor, and on default the owner may take out an appointment from the surrogate judge of the county in which the cemetery is situate directing the executor or trustee to appear before him at such time and place as he appoints, and upon the hearing, pursuant to such appointment, the judge has authority to direct payment or delivery over to the owner of such money or property or make such other disposition thereof in the premises as to him seems proper in order to carry out fully the intention of the testator or settlor as set forth in his will or other instrument, and the costs of and incidental to the application are in the discretion of the judge.

Where  
amount \$200  
or less

(8) Where the amount of the money or the value of the property directed to be delivered over to the owner is \$200 or less, the order may be filed in the small claims court of the division in which the executor, trustee or settlor resides, and, in all other cases, in the county court of the county in which the executor, trustee or settlor resides, and, when so filed, the order may be enforced in like manner as a judgment of the court in which it is filed.

Charges,  
what may  
and what  
may not be  
made by  
owner

(9) The owner shall not make any charge in connection with the erection of monuments, tombstones or vaults, except a reasonable charge for opening graves and constructing the foundations, or erecting monuments, tombstones or vaults where the erecting is done by the owner.

Payment  
of money  
on deposit  
in chartered  
banks

(10) Where money has been deposited with a chartered bank in Ontario to provide a fund to furnish revenue by way of interest

or otherwise for the perpetual upkeep of a lot, the bank may pay the money to the owner for the purposes for which it was deposited, to be dealt with according to this Act, and the owner may give an effectual release to the bank upon receiving the money. R.S.O. 1960, c. 47, s. 23.

**24.**—(1) Where an owner sells or transfers a lot in a cemetery or a compartment in a mausoleum or columbarium, he shall set aside in trust for perpetual care, out of the amount received on the sale or transfer, such amount as the regulations prescribe.

Perpetual  
care funds  
to be set  
aside

(2) Where the amount received on the sale or transfer is not sufficient to provide the amount prescribed by the regulations or if nothing is received on the sale or transfer, the owner shall forthwith make up the deficiency so as to provide the amount so prescribed.

Deficiency  
of perpetual  
care funds

(3) Where the owner is entitled to retain perpetual care funds, he shall invest the amount so set aside or, where he is not entitled to retain perpetual care funds, he shall pay over the amount so set aside as provided in this Act.

Disposition  
of perpetual  
care funds

(4) The owner shall, out of the income of such investment, preserve and maintain in a proper manner in perpetuity all lots in the cemetery, or compartments or crypts in the mausoleum or columbarium, as the case may be, and the owner may, out of such income, preserve and maintain tombs, monuments and enclosures and such other matters or things in or about the cemetery, mausoleum or columbarium as are prescribed by the regulations. R.S.O. 1960, c. 47, s. 24.

Application  
of perpetual  
care income

**25.** Every owner of a cemetery shall keep such records in connection with the establishment, maintenance, and operation of the cemetery as the regulations require and shall submit the records to the Minister at such times and with such information as the regulations prescribe. R.S.O. 1960, c. 47, s. 25.

Records  
to be kept  
by owners

**26.** Such officers of the Department as the Minister may appoint to inspect the books and records kept by owners in respect of the establishment, maintenance and operation of cemeteries, shall for the purpose of inspection have access to all such books and records at all reasonable times. R.S.O. 1960, c. 47, s. 26.

Books and  
records to  
be open to  
officers of  
Department

**27.**—(1) Every owner shall pay over all perpetual care funds that have heretofore and that hereafter come into his possession to the Public Trustee or to a trust company registered under *The Loan and Trust Corporations Act* within one month from the day on which the funds come into his possession or within such further period of time as the regulations provide.

Perpetual  
care funds  
to trust  
company,  
etc.  
R.S.O. 1970,  
c. 254



- Investment (2) The Public Trustee or trust company shall invest the perpetual care funds as prescribed by section 28 and pay the income therefrom to the owner for the purposes of perpetual care.
- Further funds to be paid over (3) Where the owner has paid over perpetual care funds under subsection 1, all perpetual care funds thereafter received by the owner shall be paid over to the Public Trustee or to the trust company, as the case may be, to be dealt with in like manner.
- Transfer of funds (4) Where the owner has paid over the perpetual care funds to a trust company in accordance with subsection 1 or 3, the owner, with the approval of the Minister, may direct the trust company to transfer any such funds to another trust company referred to in subsection 1 or to the Public Trustee.
- Idem (5) Where the owner has paid over the perpetual care funds to the Public Trustee in accordance with subsection 1 or 3, the owner, with the approval of the Minister, may direct the Public Trustee to transfer any such funds to a trust company referred to in subsection 1.
- Held in trust (6) Perpetual care funds that have been paid over to the Public Trustee or a trust company under this section shall not be returned to the owner but shall form a trust in the possession of the Public Trustee or the trust company.
- Exemption (7) This section does not apply to the perpetual care funds of a cemetery, mausoleum or columbarium or any class thereof that is exempt from this section under the regulations. R.S.O. 1960, c. 47, s. 27.
- Investment of funds **28.**—(1) Every owner entitled to hold perpetual care funds, the Public Trustee or a trust company shall invest perpetual care funds in the same manner as a trustee is authorized to invest trust funds under *The Trustee Act*.
- R.S.O. 1970, c. 470
- Deposit of funds in bank pending investment (2) Except as otherwise provided in this Act or the regulations, the owner, Public Trustee or a trust company, pending the investment of perpetual care funds or pending the payment over of such funds to the Public Trustee or a trust company in the case of an owner not entitled to hold perpetual care funds, may deposit them during such time as is reasonable in the circumstances in any chartered bank of Canada, or in the Province of Ontario Savings Office, or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act*.
- R.S.O. 1970, c. 254
- Exception (3) This section does not apply to the perpetual care funds of a cemetery, mausoleum or columbarium or any class thereof that is exempt from this section under the regulations. R.S.O. 1960, c. 47, s. 28.

**29.**—(1) For the purposes of this section and sections 30 to 37, Interpretation, ss. 29-37  
“owner” includes a trust company to which perpetual care funds have been paid. R.S.O. 1960, c. 47, s. 29 (1); 1961-62, c. 12, s. 2.

(2) Every owner shall forthwith submit to be passed, examined and audited, by the judge of the surrogate court for the county or district in which his cemetery, mausoleum or columbarium is located, accounts of his dealings with perpetual care funds that have come into his hands since the 1st day of January, 1952, but this subsection does not apply to any owner whose accounts with respect to such funds have been so passed since the 1st day of January, 1955. R.S.O. 1960, c. 47, s. 29 (2). Passing of accounts

(3) Notwithstanding subsection 2, where the owner of a cemetery is a corporation that owns five or more cemeteries located in more than one county, the owner may submit his accounts to be passed, examined and audited by the judge of the surrogate court of the Judicial District of York. 1966, c. 14, s. 1, *amended*. Exception

(4) On a passing of accounts, the judge may require the owner, Idem

(a) to submit additional accounts or information with respect to perpetual care funds; and

(b) to make a full disclosure and accounting of all perpetual care funds that have come into the possession of the owner at any time.

(5) Where a cemetery, mausoleum or columbarium is hereafter established, the owner shall, within five years after its establishment, submit to be passed, examined and audited by the judge, accounts of his dealings with perpetual care funds. Idem

(6) This section does not apply to perpetual care funds of a cemetery, mausoleum or columbarium or any class thereof that is exempt from this Act under the regulations. R.S.O. 1960, c. 47, s. 29 (3-5). Exemption

**30.** After the first passing of accounts under section 29 or a predecessor thereof, the owner shall submit his accounts with respect to perpetual care funds to be passed, examined and audited at intervals not exceeding five years from the date of the order made on the last previous passing of accounts. R.S.O. 1960, c. 47, s. 30. Periodical passing of accounts

**31.** The judge of the surrogate court for the county or district in which a cemetery, mausoleum or columbarium is located may direct a passing of accounts of perpetual care funds at any time. R.S.O. 1960, c. 47, s. 31. Passing of accounts



Extension  
of time for  
passing  
accounts

**32.** Where for any reason the judge considers it expedient, he may from time to time, after notice has been given to the Public Trustee of an application to extend the time for passing accounts, extend the time prescribed by section 29 or 30 for a period not exceeding two years. R.S.O. 1960, c. 47, s. 32.

Provisions of  
R.S.O. 1970,  
cc. 451, 470  
to apply

**33.**—(1) Except as provided in subsection 2, the provisions of *The Surrogate Courts Act* and the rules made thereunder and of *The Trustee Act* with respect to the passing of accounts of an executor, administrator or trustee apply *mutatis mutandis* to the passing of accounts under this Act, but the owner shall not be allowed any compensation for his care, pains and trouble and his time expended in and about the perpetual care funds, and any agreement made by the owner as defined in clause *j* of section 1 with respect to the payment to a trust company or to the Public Trustee for services in connection with funds entrusted to the trust company or to the Public Trustee may be reviewed and passed upon by the judge on a passing of accounts.

Notice

(2) Notice of the passing of accounts shall be served only upon the Public Trustee unless the judge otherwise directs. R.S.O. 1960, c. 47, s. 33.

Breach of  
trust

**34.** If, upon the passing of accounts, the judge finds that the owner has been guilty of a breach of trust or has in his hands perpetual care funds that are not immediately required for perpetual care purposes, or has failed to set aside the proper amount for such purposes, he may direct that the funds or a part thereof be paid to the Public Trustee or to a trust company, or make such order as he considers necessary to compel compliance with this Act or the trust in question. R.S.O. 1960, c. 47, s. 34.

Information  
required  
by Public  
Trustee

**35.** An owner shall from time to time furnish the Public Trustee with such information with respect to perpetual care funds as the Public Trustee requires. R.S.O. 1960, c. 47, s. 35.

Interest  
of Public  
Trustee

**36.** The Public Trustee shall be deemed to be a person having an interest in perpetual care funds. R.S.O. 1960, c. 47, s. 36.

Law appli-  
cable to  
property for  
charitable  
purposes

**37.** In addition to the powers, rights and obligations created by this Act, the provisions of the general law either statutory or otherwise apply to an owner or trust company with respect to any perpetual care funds in his hands to the same extent as they are applicable to a trustee having funds or property in his hands for charitable purposes. R.S.O. 1960, c. 47, s. 37.

Pre-need  
assurance  
funds

**38.**—(1) Every owner who sells cemetery supplies or cemetery services to be furnished or supplied upon the death of a person who is alive at the time the sale is made shall establish and maintain a pre-need assurance fund.

(2) Every owner referred to in subsection 1 shall pay into his pre-need assurance fund such portion of the consideration of each sale as the regulations prescribe, and he may withdraw from the fund such portion as the regulations prescribe upon such terms and conditions as the regulations prescribe.

Operation  
of fund

(3) Sections 27 to 37, except subsection 6 of section 27, subsection 2 of section 29 and subsection 2 of section 33, apply *mutatis mutandis* to pre-need assurance funds.

Application  
of ss. 27-37

(4) The Minister or a person designated by him shall be deemed to be a person having an interest in pre-need assurance funds.

Minister  
deemed to  
have interest

(5) Every owner shall forthwith submit to be examined, audited and passed by the judge of the surrogate court for the county or district in which his cemetery, columbarium or mausoleum is located the accounts of his dealings with the pre-need assurance moneys that have come into his hands since the 1st day of November, 1957, but this subsection does not apply to any owner whose accounts with respect to such funds have been passed since the 1st day of January, 1962.

Passing of  
accounts

(6) Notice of the passing of accounts shall be served upon the Minister. 1962-63, c. 10, s. 3.

Idem

**39.** Where an action has been commenced by debenture holders whose debentures are charges against the assets of a cemetery and perpetual care funds paid to the owner of the cemetery have not been set aside as required by this Act and the regulations and a receiver has been appointed by order of the court, the Lieutenant Governor in Council may, notwithstanding this Act and the regulations, fix the amount to be set aside for perpetual care. R.S.O. 1960, c. 47, s. 38.

Power to  
adjust  
amount of  
perpetual  
care funds

**40.** The owner of a cemetery that is not operated for gain or profit may maintain any lot, tomb, monument or enclosure that is not being properly maintained by or on behalf of the owner thereof, and the reasonable charges for so doing are a debt due by the lot owner to the owner of the cemetery. R.S.O. 1960, c. 47, s. 39.

Right to  
charge  
owner with  
cost of  
maintenance

**41.—**(1) If additional land is required for the enlargement of a cemetery and the council of the municipality in which the land is situate by by-law declares that in the opinion of the council the owner should, for that purpose, have power to expropriate any adjacent land described in the by-law, and if the Department certifies that in its opinion the proposed enlargement is for the public advantage and convenience and ought to be permitted, the owner, upon registering the by-law and certificate in the proper registry or land titles office, in respect of the land described in the

Power to  
acquire  
additional  
lands, etc.

R.S.O. 1970, c. 284 by-law, possesses the powers conferred upon the council of a local municipality by *The Municipal Act*.

How proceedings to be instituted

(2) Where the owner, not being a municipal corporation, desires to proceed under this section, proceedings for expropriation may be initiated by notice. R.S.O. 1960, c. 47, s. 40.

Power to make regulations

**42.** Subject to this Act and to the regulations, the owner may make regulations for laying out and selling lots and managing the cemetery, for regulating burials therein, the removal of bodies therefrom, the erection or removal of tombs, monuments, grave-stones, vaults, copings, fences, hedges or other permanent improvements therein, the planting, placing and removal of trees, shrubs and plants in the grounds, and otherwise generally respecting the use of the grounds, and for the execution of conveyances of lots or plots in the cemetery. R.S.O. 1960, c. 47, s. 41.

Power to borrow

**43.** The owner may borrow money for the purpose of laying out, making and improving roads in the cemetery, and for that purpose may mortgage all his estate, right and interest in the cemetery, but nothing in this section authorizes the mortgagee or any one claiming under him to use or deal with the cemetery in a manner inconsistent with the continued use of it as a cemetery or inconsistent with any provision of this Act for the preservation and protection of it for cemetery purposes. R.S.O. 1960, c. 47, s. 42.

Duties of owner

**44.**—(1) The owner shall,

- (a) keep and maintain fences about the cemetery sufficient to prevent dogs, cattle and other animals from straying therein;
- (b) keep the cemetery and the buildings and fences thereof in good order and repair; and
- (c) see that all burials in the cemetery are conducted in a decent and orderly manner and that quiet and good order are at all times maintained therein.

Weeds

(2) Where there is no person resident in the municipality in which a cemetery is situate in charge of it, the cemetery shall be deemed non-resident land within the meaning of *The Weed Control Act*.

R.S.O. 1970, c. 493

Offence

(3) Every owner who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$10 and \$5 for every day during which the contravention continues. R.S.O. 1960, c. 47, s. 43, *amended*.

Sewers and drains

**45.** Every owner shall construct all necessary sewers and drains in and about the cemetery for draining it and keeping it

dry, and may whenever necessary connect any such sewer or drain with an existing sewer with the consent in writing of the municipal corporation or other body or the person owning or controlling the highway, lane or other public communication, or the land of which any part is to be opened up for that purpose, doing as little damage as possible and restoring the same to as good condition as before the opening was made. R.S.O. 1960, c. 47, s. 44.

**46.**—(1) The owner shall not cause or suffer any offensive matter from the cemetery to be brought to or flow into any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place. No offensive matter to be allowed into rivers, etc.

(2) Every owner who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50, and in addition is liable for any damage caused thereby to any person having a right to use such water. R.S.O. 1960, c. 47, s. 45. Offence

**47.**—(1) The owner shall not cause or suffer any dead body to be interred in a vault or otherwise under or within fifteen feet of the outer wall of a church, chapel or other building in the cemetery. Interments not to be within 15 feet of church walls, etc.

(2) Every owner who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. R.S.O. 1960, c. 47, s. 46. Offence

**48.**—(1) The owner shall not permit any burial therein until he has been registered as the owner of the cemetery with the Registrar General, through the division registrar of the municipality in which the cemetery is situate. Owner's name to be recorded

(2) Every owner who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$50. R.S.O. 1960, c. 47, s. 47. Offence

**49.** Where the owner neglects to keep a cemetery in good order or to erect or maintain fences as required by this Act, the local board may give notice to him to do so, specifying in the notice what he is required to do, and if he does not within one month after the notice comply with such requirements, the local board may cause such requirements to be complied with at his expense, and may levy the cost thereof by distress and sale of the owner's goods and chattels, or may maintain an action for the recovery thereof. R.S.O. 1960, c. 47, s. 48. Default of owner

**50.** Sections 5, 6, 7, 9, 11, 13, 15, 16, 17, 19, 42, 45 and 46 apply *mutatis mutandis* to mausolea in the same manner as they apply to cemeteries. R.S.O. 1960, c. 47, s. 49. Application of certain sections to mausolea



Extension  
of perpetual  
care and  
pre-care  
provisions

**51.** The Lieutenant Governor in Council may make regulations providing that the provisions of this Act respecting perpetual care funds and pre-need assurance funds and the regulations with respect thereto apply to persons who do not own a cemetery but who sell or offer for sale cemetery lots or cemetery supplies and services. 1966, c. 14, s. 2.

Provision  
for sale of  
part of lot  
where no  
interment  
made for  
20 years

**52.—(1)** Where no interment has been made in a plot for more than twenty years and the plot owner has not maintained and kept it in a proper state of repair for more than five years or has made default for more than five years in payment of the maintenance charges referred to in section 40, a judge of the county or district court of the county or district, on the application of the owner of the cemetery and after notice has been given as provided by subsection 2 and on being satisfied that the facts are as above set out, may authorize the owner of the cemetery to sell and convey that part of the plot in which no interment has been made, and the proceeds of any such sale, except as otherwise provided in subsection 3, shall be invested and the income derived therefrom shall be applied to the perpetual care and maintenance of that part of the plot in which an interment has been made.

Notice of  
application

**(2)** Where to the knowledge of the owner of the cemetery the plot owner resides in the county or district, notice of the application shall be delivered to him personally or sent to his address by registered mail at least four days before the time fixed for hearing the application, and, where he resides in some other county or district in Ontario and his place of residence is known by the owner of the cemetery, the notice shall be sent to the address of his residence by registered mail at least ten days before the time fixed for the hearing, and, where the place of his residence is not in Ontario or is unknown, the judge may direct what notice, if any, shall be given.

Where fund  
for per-  
petual care  
maintained  
and lots sold

**(3)** Where the owner of a cemetery that is not operated for gain or profit maintains a fund for the perpetual care of the cemetery and plots or parts of plots are sold under this section, the owner shall apply the proceeds received from the sale, or so much as is available, in the following order and priority:

*Firstly.*—In reduction or satisfaction of all arrears due to the owner for the maintenance charges referred to in subsection 1.

*Secondly.*—In providing for the perpetual care of that part of the lot in which an interment has been made.

*Thirdly.*—Any balance remaining to be carried to the credit of the perpetual care fund maintained by the cemetery. R.S.O. 1960, c. 47, s. 50.



**53.** Where the owner of a cemetery is an incorporated company or a municipal corporation, it shall provide graves for strangers and for the indigent free of charge, but an incorporated company is not bound to do so in the case of an indigent except upon the certificate of a member of the council of the municipality or of a minister or clergyman that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery. R.S.O. 1960, c. 47, s. 51.

Graves to be provided for strangers and indigents free of charge

**54.**—(1) The body of a person who has died of small pox, scarlet fever, measles, diphtheria, croup, bubonic plague, cholera, epidemic cerebro spinal meningitis, or epidemic anterior poliomyelitis shall not be disinterred, except for the purpose of transportation or reinterment and in conformity with the regulations.

Disinterment in cases of contagious diseases

(2) No such dead body shall be transported by railway, steam or other vessel, or other public conveyance unless prepared in the manner provided by the regulations and enclosed in a hermetically sealed coffin that shall not be subsequently opened. R.S.O. 1960, c. 47, s. 52.

Transport of dead body

**55.**—(1) No dead body shall at any time be disinterred or removed from the grave, place of burial or vault, other than a receiving vault, except under and subject to the regulations and under the supervision and direction of the medical officer of health.

Disinterment of dead body

(2) The certificate of the medical officer of health that this Act and the regulations have been complied with shall be affixed to the coffin or other receptacle containing the dead body before its removal from the cemetery.

Certificate of medical officer of health

(3) Every person who disinters or removes a dead body from a grave, place of burial or vault, except as hereinbefore provided, and every person who conveys or transports any such body in contravention of this Act is guilty of an offence and on summary conviction is liable to a fine of \$100. R.S.O. 1960, c. 47, s. 53.

Offence

**56.** Every human body interred in a cemetery that is not placed or buried in a private vault so constructed as to prevent the escape of noxious or unhealthful gases therefrom shall be buried so that the outside cover or shell of the coffin or other receptacle is at least three feet beneath the natural surface of the ground, and the coffin or other receptacle shall be immediately covered with at least three feet of earth. R.S.O. 1960, c. 47, s. 54.

Depth of burials

**57.**—(1) Notwithstanding anything in this Act, where it is deemed necessary to disinter a dead body for the purpose of a judicial proceeding, the court in which the proceeding is pending

Disinterment, court order

may direct its disinterment under and subject to such conditions as to reinterment as are considered proper.

Minister of  
Justice and  
Attorney  
General's  
order

(2) Where the Minister of Justice and Attorney General considers it expedient for the purpose of an inquiry as to the cause of death or for the purpose of a criminal investigation or proceeding that a body should be disinterred, he may exercise the powers mentioned in subsection 1.

Coroner's  
order

(3) A coroner who has issued his warrant for the holding of an inquest upon a dead body may direct it to be disinterred. R.S.O. 1960, c. 47, s. 55.

Closing  
cemeteries

**58.** Where the Department reports in writing that a cemetery is so situated that, owing to the want of proper facilities for drainage or from any other cause, it has become or is likely to become dangerous to the health of the inhabitants of the locality or that for any other reason it is expedient that it should be closed, the Lieutenant Governor in Council may declare it to be closed and thereupon no further interments shall take place therein. R.S.O. 1960, c. 47, s. 56.

Removal of  
bodies and  
reinterment  
in another  
cemetery

**59.—**(1) Where a cemetery has been closed by the Lieutenant Governor in Council and the owner of the cemetery establishes to the satisfaction of the Lieutenant Governor in Council that it is expedient that the bodies therein should be removed therefrom, the Lieutenant Governor in Council may direct such removal in the manner and according to the procedure provided by this section.

Notice of  
application

(2) Before the application for an order under subsection 1 is granted, the owner shall give notice of the application,

- (a) once a week for four successive weeks in *The Ontario Gazette*;
- (b) once a week for four successive weeks in a newspaper having general circulation in the locality in which the cemetery is situate; and
- (c) by registered letter addressed to every plot owner in the cemetery whose address is known or can be ascertained by the owner.

Notice of  
order to be  
published

(3) After the making of the order, the owner shall forthwith give notice thereof by publication once a week for at least two successive weeks in *The Ontario Gazette* and in a newspaper having general circulation in the locality in which the cemetery is situate, or, if there is no such newspaper, then in a newspaper in the county or district town, that he will, at the expiration of thirty

days from the publication of the last of such notices, disinter and remove the bodies and reinter them in the place described in the notice, which shall be in some cemetery in the same or in an adjacent municipality.

(4) At the expiration of the time fixed by such notice, any bodies not removed by the relatives or friends of the deceased may be removed by the owner at his own expense, and when removed shall be reinterred by him in the cemetery mentioned in the notice.

Time of removal and duties of owner

(5) Sections 54, 55 and 56 apply to such disinterment, removal and reinterment.

Application of ss. 54, 55, 56

(6) The owner shall remove all monuments or headstones or other stones marking the graves in which bodies so removed are buried, and shall re-erect or replace them in the cemetery to which the bodies are removed.

Removal and re-erection of monuments, etc.

(7) If the owner satisfies a judge of the county or district court of the county or district that he has removed from the cemetery and reinterred as provided in this Act all the remains which with the exercise of reasonable diligence he has been able to find buried in the cemetery, the judge may certify that this section has been complied with and the certificate may be registered in the proper registry or land titles office.

Certificate of judge

(8) The certificate when so registered is conclusive evidence that the owner has removed from the land therein described all the remains there buried, and thereafter the land shall be deemed not to be a cemetery within the meaning of this Act, but may be sold, leased or otherwise disposed of and dealt with by the owner as if it had not been a cemetery. R.S.O. 1960, c. 47, s. 57.

Effect of certificate

**60.** Where a cemetery has been closed by the Lieutenant Governor in Council and the owner does not proceed as provided by section 59, the Lieutenant Governor in Council may authorize any person to exercise the powers of the owner in respect of a removal directed by the Lieutenant Governor in Council and every expense incurred by such person in so doing is a debt due and owing from the owner to the Crown in right of Ontario. R.S.O. 1960, c. 47, s. 58.

Removal by person other than owner

**61.—**(1) No person shall,

Prohibitions

(a) wilfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure placed in a cemetery, or any fence, railing or other work for the protection or ornament of a cemetery, or of any such tomb, monument, gravestone or other structure or of any lot in a cemetery;

- (b) wilfully destroy, cut, break or injure any tree, shrub or plant in a cemetery, or wilfully injure, destroy or deface any building or structure or any road, walk or other works in a cemetery;
- (c) play at any game or sport in a cemetery;
- (d) discharge firearms in a cemetery, except at a military funeral;
- (e) wilfully and unlawfully disturb persons assembled for the purpose of burying a body in a cemetery; or
- (f) commit a nuisance in a cemetery.

## Offence

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$4 and not more than \$40.

## Animals

(3) No person shall bring any dog, goat or cattle within the limits of a cemetery, and every person so doing is guilty of an offence and on summary conviction is liable to a fine of not more than \$20.

Liability  
to action

(4) Every person who contravenes subsection 1 or subsection 3 is also liable in an action in the name of the owner of the cemetery or of a burial plot upon which the damage is done or other unlawful act committed to pay all damages occasioned by his unlawful act and, when recovered, the damages shall be applied under the direction of the owner of the cemetery for the reparation and reconstruction of the property destroyed. R.S.O. 1960, c. 47, s. 59.

Where  
municipality  
to maintain  
cemetery

**62.** Where the owner of a cemetery cannot be found or is unknown or is unable to maintain it, the council of the local municipality in which the cemetery is situate shall maintain it and the corporation of the local municipality shall for the purposes of this Act be deemed to be the owner of the cemetery. R.S.O. 1960, c. 47, s. 60.

Power of  
municipality  
to exprop-  
riate  
cemetery or  
land to  
establish  
cemetery

**63.** The council of a local municipality may, with the approval of the Lieutenant Governor in Council, pass a by-law,

- (a) for expropriating land in the municipality for the establishment of a cemetery; or
- (b) for expropriating a cemetery situate in the municipality or in an adjacent township or in unorganized territory,

R.S.O. 1970,  
c. 154

and *The Expropriations Act* applies thereto. R.S.O. 1960, c. 47, s. 61, *amended*.



**64.**—(1) Where a local municipality has expropriated a cemetery, the municipality may, with the approval of the Minister, Power of municipality to convey cemetery

- (a) convey the cemetery to trustees elected in the manner provided by section 75 or to a company incorporated for the purpose of operating a cemetery upon such trusts as the council of the municipality considers proper; and
- (b) assign to such trustees or company any money or securities held by the municipality for the purpose of providing for perpetual care of graves, lots, gravestones or fences in the cemetery.

(2) Where a municipality has conveyed a cemetery to trustees under this section, section 75 applies *mutatis mutandis*. Application of s. 75 R.S.O. 1960, c. 47, s. 62.

**65.**—(1) Subject to sections 5 to 61 and to the regulations, the council of every local municipality and the trustees of every police village may pass by-laws for, By-laws

- (a) making an annual or other grant of money to the owner of a cemetery situate in the municipality or the police village, or in any adjacent municipality or police village;
- (b) regulating funerals and the interment of the dead;
- (c) acquiring land in the municipality or in the police village or in an adjacent township or in unorganized territory for a cemetery, or for the enlargement of an existing cemetery of which the municipality or police village is the owner;
- (d) selling or leasing parts of such land for the purpose of interment in family vaults or otherwise, and fixing the terms on which the land shall be conveyed or leased and held;
- (e) the maintenance, management, regulation and control of any cemetery that is owned by the corporation or the trustees whether situate in or outside the municipality or police village.

(2) The authority given to make by-laws under clause *e* of subsection 1 includes authority to provide for the removal or rearrangement of any monument or gravestone or other structure in any cemetery that the municipality or the police village, as the case may be, has been charged with maintaining under section 62. Removal, etc., of monuments

(3) No such by-law comes into force or takes effect until it has been approved in writing by the Department. By-law to be approved by Department R.S.O. 1960, c. 47, s. 63.



By-laws  
prohibiting  
interment

**66.** The council of every urban municipality and the trustees of every police village may pass by-laws for prohibiting the interment of the dead in the municipality or police village. R.S.O. 1960, c. 47, s. 64.

Power to  
sell to  
municipal  
corporation

**67.** The owner of an existing cemetery or of any land held for cemetery purposes may sell or transfer it to any municipal corporation or to the trustees of any police village, and, if it has not been used for burial purposes, the corporation may sell it and acquire other land in lieu of it. R.S.O. 1960, c. 47, s. 65.

Council of  
city or town  
may transfer  
cemetery to  
board of  
park man-  
agement  
R.S.O. 1970,  
c. 384

**68.** The council of a city or town for which there is a board of park management established under *The Public Parks Act* may by by-law transfer the control and management of a cemetery vested in the corporation of the municipality to such board, and thereafter the cemetery is vested in the board of park management and the board has the control and management of the cemetery and is responsible for its maintenance in the same manner and to the same extent as a municipal corporation owning and maintaining a cemetery under this Act. R.S.O. 1960, c. 47, s. 66.

Cemetery  
board in  
city and  
town

**69.** The council of a city or town owning or controlling a cemetery situated either in or outside the limits of the city or town may by by-law transfer the control and management of the cemetery to a board consisting of not fewer than three nor more than seven persons who shall hold office during the pleasure of the council and may by the by-law define the duties and powers of such board. R.S.O. 1960, c. 47, s. 67.

Cemetery  
board in  
township

**70.**—(1) The council of a township may by by-law appoint a board consisting of not fewer than three nor more than seven persons who shall hold office during the pleasure of the council, and may by by-law provide that the board shall have and may exercise in the municipality all the powers and perform all the duties of a municipal council with respect to cemeteries in the township, including the powers and duties mentioned in section 62.

Board to  
be a  
corporation

(2) Such a board is a corporation with the name of “The Cemetery Board of the Township of (*insert name of township*)” and the ownership and control of the cemeteries owned or controlled by the corporation of the township are vested in the board.

Cemetery  
board in  
village

(3) The council of a village has the like powers as are conferred on townships by subsections 1 and 2 not only with respect to cemeteries in the village but also as to cemeteries outside the village owned and controlled by the corporation of the village. R.S.O. 1960, c. 47, s. 68.

**71.**—(1) The council of every county shall appoint a committee to be known as “The (*insert name of county*) War Memorial Committee” to take charge of monuments, tablets and other memorials established or erected in the country in commemoration of the nursing sisters, officers and men of Her Majesty’s forces who served, were wounded or killed or died during any war, except only such monuments, tablets and other memorials as are being cared for by municipalities, churches or other organizations. War memorial committee

(2) The committee shall be composed of five persons of whom two shall be members of the county council and the members of the committee shall serve without remuneration. Idem R.S.O. 1960, c. 47, s. 69.

**72.**—(1) Where ten or more inhabitants of a township or part of a township desire to take a conveyance of land for a cemetery not for the exclusive use of any particular religious body, they may appoint trustees to whom, and their successors appointed in the manner provided by the conveyance, the land may be conveyed. Where lands for cemetery may be vested in trustees

(2) Such trustees and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land in trust for the uses and purposes mentioned therein and may maintain and defend actions for the protection thereof and of their property therein. Trustees to hold in perpetual succession

(3) Not more than ten acres shall be held in trust under any such conveyance. Limitation R.S.O. 1960, c. 47, s. 70.

**73.** Where trustees have been appointed to take a conveyance of land for cemetery purposes in a township or village and have acquired land in the township or village for cemetery purposes and there is in the township or village other land that has been used as a cemetery and no provision has been made for the appointment of trustees for such last-mentioned land and there is no person upon whom the duty of maintaining and caring for the land rests and the owner of such land is absent or unknown, the Ontario Municipal Board, upon the application of the trustees and after the giving of such public notice as the Board considers sufficient, may make an order vesting such last-mentioned land in the trustees and, upon the registration of the order in the proper registry or land titles office, the land vests in the trustees and they have and shall perform the same powers and duties with respect thereto as with respect to other lands conveyed to them for cemetery purposes. Cemetery trustees may be empowered to take over other cemeteries R.S.O. 1960, c. 47, s. 71.

Closing road  
allowance

**74.** Where a road allowance that has not been opened for travel passes through lands used for cemetery purposes or separates or lies between lands used for cemetery purposes and other lands vested in the trustees under section 73, or conveyed to them, the Ontario Municipal Board, upon the application of the trustees and after notice to the council of the municipality and upon being satisfied that it is in the public interest that the road allowance should be closed and that the part thereof that passes through or is adjacent to the cemetery lands should be vested in the trustees, may make an order closing the road allowance and vesting so much thereof as passes through or adjoins the cemetery lands in the trustees, and, upon the registration of the order in the proper registry or land titles office, the lands described in the order vest in the trustees for cemetery purposes. R.S.O. 1960, c. 47, s. 72.

Election of  
trustees  
where no  
other provi-  
sion made

**75.—(1)** Where land has been set apart or sold for cemetery purposes and used as a cemetery and no provision has been made for the appointment of trustees of the cemetery, or where there is no person upon whom the duty of taking care of and maintaining a cemetery rests, the owners of plots therein may elect trustees in the manner provided in this section.

Meeting

(2) Three or more of such owners may call a meeting for the purpose of electing trustees by notice in Form 1 to be published once a week for two successive weeks in a newspaper published in the local municipality in which the cemetery is situate, or, if no newspaper is published in the local municipality, then in the newspaper published nearest to the local municipality.

Date of  
meeting

(3) The date of the meeting shall not be less than two weeks from the date of the last publication of the notice.

Chairman  
and  
secretary

(4) At the time and place named in the notice, the plot owners present shall elect from among themselves some person to act as chairman and a person to act as secretary for the meeting.

Three  
trustees to  
be elected

(5) After the election of the chairman and secretary, the plot owners present shall elect from among themselves three persons to be trustees of the cemetery.

Certificate  
of election

(6) After the election of the trustees, the chairman and secretary shall certify as to the election in Form 2.

Registration  
and filing  
certificate  
R.S.O. 1970,  
c. 409

(7) The certificate shall be made in triplicate and one of them, with an affidavit of execution in the form prescribed by *The Registry Act*, shall be registered in the proper registry or land titles office, one of them shall be filed with the clerk of the local municipality in which the cemetery is situate and the other of them shall be delivered to the trustees.

(8) Upon the registration of the certificate, the cemetery is vested in the trustees so appointed and their successors, subject to any deed or other instrument setting it apart for cemetery purposes or conveying it or any plot therein for cemetery purposes and subject to the rights of any person who may have theretofore purchased plots in the cemetery and subject to this Act.

Effect of registration

(9) The trustees elected and their successors shall be deemed to be the owners of the cemetery.

Trustees deemed owners

(10) Where a vacancy occurs in the office of trustee, whether originally elected or elected to fill a vacancy, his successor shall be elected and his election shall be certified and the certificate shall be registered in the manner provided in subsection 7. R.S.O. 1960, c. 47, s. 73.

Vacancies among trustees

(11) This section applies *mutatis mutandis* to a mausoleum that has been established and used and where there is no person upon whom the duty of taking care of and maintaining the mausoleum rests. 1966, c. 14, s. 3.

Mausoleum

**76.**—(1) Where adjoining cemeteries are owned by separate boards of trustees or companies, they may appoint trustees to whom and to their successors, appointed in the manner provided by the conveyance, all or any of the land vested in the appointing bodies may be conveyed, and the land may be conveyed accordingly and the trustees appointed by such conveyance and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land thereby or thereafter conveyed to them as a site for a cemetery and for the enlargement of an existing cemetery, and maintain and defend actions for the protection thereof and of their property therein.

Adjoining cemeteries

(2) Instead of appointing trustees as provided by subsection 1, the cemeteries may be conveyed to and vested in the company or in one of the companies upon such trusts, if any, as the appointing bodies consider proper. R.S.O. 1960, c. 47, s. 74.

Cemeteries may be vested in company

**77.** The powers of an owner of a cemetery shall be deemed to extend to and include the provision and maintenance of crematoria and columbaria and the disposal of the bodies of deceased persons by cremation, and the provision of such fixtures, appliances and facilities as are deemed necessary in order that the cremation may be carried on in accordance with accepted scientific principles. R.S.O. 1960, c. 47, s. 75.

Establishment of crematoria

**78.** The owner may, subject to approval of the Lieutenant Governor in Council, frame by-laws, rules and regulations for the reception and cremation of the bodies of deceased persons, for the deposit of ashes remaining therefrom in a suitable columbarium or for otherwise disposing of them, and for the fees and rates to be charged. R.S.O. 1960, c. 47, s. 76.

Regulation of cremation and disposal of ashes



Medical  
certificate

R.S.O. 1970,  
c. 377

**79.** No body shall be cremated unless a certificate and permit similar to that now required for burial have been produced nor within forty-eight hours after death, unless death has been occasioned by a communicable disease subject to quarantine and placard according to *The Public Health Act* and the regulations made thereunder, and so certified by a legally qualified medical practitioner, in which case a duly constituted local board of health may order that the body of the deceased be cremated forthwith. R.S.O. 1960, c. 47, s. 77.

Coroner's  
certificate

**80.**—(1) No body shall be cremated unless a certificate in the prescribed form, signed by a coroner of the municipality in which the death took place, has been deposited with the owner, which certificate shall contain the statement that the cause of death has been definitely ascertained and that there exists no reason for further inquiry or examination.

Where death  
outside  
Ontario

(2) Where the death took place outside Ontario, the certificate required by subsection 1 may be issued by a coroner of the municipality in which the body is to be cremated. R.S.O. 1960, c. 47, s. 78.

Right to  
refuse  
cremation

**81.** The owner has the right to refuse to cremate in any case without assigning reasons. R.S.O. 1960, c. 47, s. 79.

Regulations

**82.** The Lieutenant Governor in Council may make such regulations as are considered advisable for the better carrying out of this Act. R.S.O. 1960, c. 47, s. 80.

General  
penalty

**83.** Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction, where no other penalty is provided, is liable to a fine of not less than \$5 and not more than \$100. R.S.O. 1960, c. 47, s. 81, *amended*.

FORM 1

(Section 75 (2))

Take notice that a meeting will be held at (*naming a place in the local municipality in which the cemetery is situate*) at..... in the..... of..... on the..... day of....., 19....., at the hour of..... o'clock in the..... noon, for the purpose of electing trustees for the cemetery (*here insert description of land sufficient for the purpose of registration and name or designation, if any, of the cemetery*). The owners of plots are requested to attend the meeting.

Dated at..... the..... day of....., 19.....  
A.B., C.D., E.F.,  
Plot Owners.

R.S.O. 1960, c. 47, Form 1.

FORM 2

(Section 75 (6))

We hereby certify that at a meeting of the owners of plots in the cemetery (*here insert description of land sufficient for the purpose of registration and the name or designation, if any, of the cemetery*),..... of....., held pursuant to the provisions of *The Cemeteries Act*, at..... on the..... day of....., 19....., the following persons were elected trustees of the cemetery:

A.B.,..... of.....  
C.D.,..... of.....  
E.F.,..... of.....  
(*insert occupation and place of residence of each trustee*).

Witness:Chairman  
Secretary

R.S.O. 1960, c. 47, Form 2.

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CHAPTER 58

The Centennial Centre of Science and Technology Act

1. In this Act,

(a) “Board” means the Board of Trustees of the Centre;

(b) “Centre” means The Centennial Centre of Science and Technology;

(c) “Minister” means the Minister of Tourism and Information or such other member of the Executive Council as the Lieutenant Governor in Council designates. 1965, c. 12, s. 1.

Interpretation
- 2.—(1) The corporation without share capital known as The Centennial Centre of Science and Technology established on behalf of Her Majesty in right of Ontario is continued and the corporation shall consist of not fewer than sixteen and not more than twenty-six trustees. 1965. c. 12, s. 2 (1), *amended*.

Centre established
- (2) The Centre shall have a seal, which shall be adopted by the Board by-law.

Seal
- (3) The fiscal year of the Centre commences on the 1st day of April in each year and ends on the 31st day of March in the following year.

Fiscal year
- (4) *The Corporations Act* does not apply to the Centre. 1965, c. 12, s. 2 (2-4).

R.S.O. 1970, c. 89, not to apply
- 3.—(1) The Lieutenant Governor in Council shall appoint the trustees of the Centre who shall be its Board of Trustees, and shall designate one of them as chairman and one of them as vice-chairman of the Board.

Appointment of trustees
- (2) A trustee may be appointed for a term not exceeding three years, but may be reappointed for one or more further terms.

Term
- (3) The Centre may pay those of its trustees who are not officers in the public service of Ontario such remuneration and expense allowances as are from time to time fixed by the Lieutenant Governor in Council.

Remuneration
- (4) A majority of the trustees for the time being constitutes a quorum.

Quorum



## By-laws

(5) The Board may, subject to the approval of the Minister, make by-laws regulating its proceedings and generally for the conduct and management of its internal affairs, and *The Regulations Act* does not apply to any such by-law. 1965, c. 12, s. 3.

R.S.O. 1970,  
c. 410

Delegation  
to  
committees

(6) A by-law establishing a committee of the Board may delegate to the committee such powers and duties of the Board as are determined in the by-law. 1968, c. 10, s. 1.

Powers of  
Board

**4.—**(1) The affairs of the Centre shall be under the control of the Board, and the Board has all the powers necessary or convenient to perform its duties or achieve the objects of the Centre.

Responsible  
to Minister

(2) The Board is responsible to the Minister.

## Chairman

(3) The chairman shall preside at all meetings of the Board, and, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman. 1965, c. 12, s. 4.

Employees  
R.S.O. 1970,  
c. 386

**5.—**(1) A Director General of the Centre may be appointed under *The Public Service Act* and such other officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Centre. 1965, c. 12, s. 5 (1); 1968, c. 10, s. 2 (1).

Duties of  
Director  
General

(2) The Director General of the Centre shall have the management and administration of the Centre, subject to the supervision and direction of the Board. 1965, c. 12, s. 5 (2); 1968, c. 10, s. 2 (2).

## Objects

**6.** The objects of the Centre are,

- (a) to depict to the public and to conduct a program of education in the origins, development and progress of science and technology, and their relationship to society;
- (b) to depict the role of Ontario in the furtherance of science and technology;
- (c) to stimulate the interest of the public in matters depicted by the Centre; and
- (d) to collect and exhibit objects and displays and to maintain and operate a museum and related facilities for the furtherance of the objects of the Centre established as a project of Ontario in commemoration of the Confederation Centennial. 1965, c. 12, s. 6.

## Funds

**7.—**(1) The moneys for the purposes of the Centre shall be paid out of the moneys that are appropriated therefor by the Legislature.

(2) The Board may acquire money, securities or other property, real or personal, by gift, devise, bequest or otherwise, and may expend, administer or dispose of any such money, securities or other property in the promotion of its objects, subject to the terms, if any, upon which such money, securities or other property were given, devised, bequeathed, or otherwise made payable to the Board or to the Centre. 1965, c. 12, s. 7. Idem

**8.** The real and personal property, business and income of the Centre are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. 1965, c. 12, s. 8. Exemption  
from  
taxation

**9.** The accounts and financial transactions of the Centre shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Board and to the Minister. 1965, c. 12, s. 9. Audit

**10.** The Board shall make a report annually to the Minister upon the affairs of the Centre, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1965, c. 12, s. 10. Report

**11.—(1)** The Lieutenant Governor in Council may make regulations, Regula-  
tions

- (a) establishing one or more endowment funds in furtherance of the objects of the Centre, and governing such funds;
- (b) regulating and governing the use by the public of the facilities, property and equipment of the Centre;
- (c) requiring the payment of fees for the admission of the public or any class thereof to the Centre, and prescribing the amounts;
- (d) for any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A person who contravenes a regulation made under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1965, c. 12, s. 11. Penalty



CHAPTER 59

The Certification of Titles Act

1. In this Act,

(a) “Director of Land Registration” means the Director of Land Registration appointed under *The Registry Act*;

(b) “Director of Titles” means the Director of Titles appointed under *The Land Titles Act*. 1970, c. 37, s. 1, *part*.

Interpreta-  
tion

R.S.O. 1970,  
c. 409

R.S.O. 1970,  
c. 234

2. The Minister of Justice and Attorney General is responsible for the administration of this Act. 1970, c. 37, s. 1, *part*.

Administra-  
tion of Act

3.—(1) The Minister of Justice and Attorney General may designate one or more barristers or solicitors as title examiners to whom the Director of Titles may refer applications under this Act for investigation and report.

Title  
examiners

(2) The Director of Titles may pay to a title examiner such portion of the fees received in respect of an application referred to such examiner as may be authorized by the Minister of Justice and Attorney General. 1961-62, c. 13, s. 1, *amended*.

Compensa-  
tion

4. The Director of Titles has and may exercise in connection with his functions under this Act all of the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 48, s. 3.

Powers of  
director

R.S.O. 1970,  
c. 379

5. The Director of Titles shall have a seal of office in such form as the Lieutenant Governor in Council approves. R.S.O. 1960, c. 48, s. 4.

Seal

6. This Act does not apply to land registered under *The Land Titles Act*. R.S.O. 1960, c. 48, s. 5.

Where Act  
not to apply

7.—(1) An owner of or any person claiming an estate in fee simple in land to which this Act applies, whether or not the land is encumbered, may apply to the Director of Titles to have the title to the land investigated and certified under this Act. R.S.O. 1960, c. 48, s. 6 (1).

Application  
for certi-  
fication



Supporting  
material

(2) An application under subsection 1 shall be accompanied by the prescribed deposit and shall be supported by,

- (a) a statement under oath of the applicant,
  - (i) that to the best of his knowledge and belief he is the owner of the estate or interest claimed, subject only to the encumbrances, easements and encroachments set forth in the application, or that there are no encumbrances, easements or encroachments affecting the land, as the case may be, and that he is not aware of the existence of any other claim adverse to or inconsistent with his own to any part of the land or to any interest therein, or that he is aware of such an adverse claim, in which case he shall set forth every such adverse claim and the particulars thereof,
  - (ii) where a person other than the applicant is in possession of the land, setting forth under what claim, right or title such person is in possession, and
  - (iii) setting forth such other facts as in his opinion may be of assistance to the Director of Titles in ascertaining the validity of his title;
- (b) a plan of survey of the land prepared by an Ontario land surveyor;
- (c) a statement under oath by the Ontario land surveyor who prepared the plan of survey, verifying the description of the land, identifying it with the plan of survey, stating the names of the persons in actual occupation of the land or any part thereof, describing the nature of the buildings on the land, and stating the nature and identifying any easements or encroachments apparent on his examination of the surface of the land or of which he has knowledge;
- (d) the title documents, if any, of the land and any other evidences of title available to the applicant;
- (e) an abstract of the title to the land, certified by the registrar of the registry division in which the land is situate, showing a good and sufficient forty-year chain of title immediately preceding the date of the application;
- (f) a typewritten abstract of the title to the land prepared in accordance with good conveyancing practice by a solicitor together with the certificate of such solicitor that he has investigated the title and believes the applicant to be the owner of the estate that he claims in the land subject only to any encumbrance set forth in the application and that he has conferred with the

applicant on the matters set forth in the statement mentioned in clause *a* and that he believes the statement to be true;

- (g) a certificate of the sheriff of the county or district in which the land is situate showing that there are no writs of execution or extent or liens in his hands against any person having an interest in the land as ascertained by the applicant from the registrar's abstract and the investigation of the title and showing that he has not sold any land under any writ against such person within the six months next preceding the date of the certificate;
- (h) a certificate of the treasurer of the municipality in which the land is situate that all municipal taxes for which the land is liable, except those for the then current year, have been paid in full;
- (i) a certificate of the Registrar in Bankruptcy of the Supreme Court of Ontario that the name of the applicant does not appear in the index book kept pursuant to section 167 of the *Bankruptcy Act* (Canada);
- (j) a statement of the Minister of Revenue that he does not claim a lien for taxes payable under the *The Corporations Tax Act* or a predecessor thereof by any corporation that appears to have had any interest in the land before the date of the filing of the application;
- (k) evidence of the consent of the Minister of Revenue to the transfer of an interest in land consequent upon the death of a person on or after the 1st day of January, 1930, where such person appears from the solicitor's abstract mentioned in clause *f* to have had an interest in the land. R.S.O. 1960, c. 48, s. 6 (2), *amended*.

R.S.C. 1952,  
c. 14

R.S.O. 1970,  
c. 91

(3) The Director of Titles may at any time require an applicant to furnish such additional or other information or material as he specifies. R.S.O. 1960, c. 48, s. 6 (3).

Further  
material

**8.**—(1) Upon the filing of an application, the Director of Titles shall cause notice thereof,

Notice of  
application

- (a) to be registered in the registry office of the registry division in which the land is situate; and
- (b) to be
  - (i) published in a newspaper having general circulation in the locality in which the land is situate, or
  - (ii) served on owners and mortgagees of land adjoining the land of the applicant; and
- (c) to be given in such other manner, if any, as he considers proper. R.S.O. 1960, c. 48, s. 7, *revised*.

Sufficiency  
of service

R.S.O. 1970,  
cc. 234, 409

Registrar  
to deliver  
required  
instruments  
to director

Manner of  
delivery

Manner of  
return

Registrar's  
disburse-  
ments

Inspection  
of registry  
office  
records

Adverse  
claim

Idem

Findings  
to be set  
out in  
writing

(2) A notice to be served under subclause ii of clause *b* of subsection 1 is sufficiently served if it is sent by registered mail addressed to the owner, mortgagee or chargee, or his assignee, as the case may be, of the land adjoining the land of the applicant at the address furnished under section 185 of *The Land Titles Act* or section 37 of *The Registry Act* or, where no such address has been furnished, addressed to the solicitor whose name appears on the conveyance, mortgage or charge, or assignment thereof, under which the owner, mortgagee or chargee, or his assignee, appears to have an interest in such adjoining land. 1961-62, c. 13, s. 2.

**9.**—(1) The Director of Titles may request the registrar of deeds for the registry division in which the land described in an application is situate to deliver any instrument appearing on the abstract or required in connection with an application under this Act that the Director of Titles desires to examine, and the registrar, upon payment of his proper fees, shall comply with the request.

(2) Where instruments are requested under subsection 1, they shall be delivered to the Director of Titles by registered mail.

(3) The Director of Titles shall return the instruments as soon as practicable by registered mail.

(4) The Director of Titles shall reimburse the registrar for all postage paid by the registrar in complying with this section. 1961-62, c. 13, s. 3, *part*.

**10.** The Director of Titles or a member of the staff of his office may inspect any abstract index or registered instrument or other paper in a registry office in connection with an application under this Act without payment of a fee therefor. 1961-62, c. 13, s. 3, *part*.

**11.**—(1) Any person having an adverse claim or a claim inconsistent with the claim set out in an application may file a statement under oath of his claim with the Director of Titles at any time before the certificate of title is executed.

(2) Where a claim adverse to or inconsistent with the claim set out in an application is filed, the Director of Titles may dispose of the issue or he may refer the matter to a judge of the Supreme Court who shall hear and determine the matter on the evidence before him or may direct the trial of an issue. R.S.O. 1960, c. 48, s. 8.

**12.**—(1) When the Director of Titles has completed his investigation and any issue referred to a judge is finally disposed of, the Director of Titles shall set out his findings in writing.

(2) A copy of the written findings of the Director of Titles shall be sent by registered mail by the Director of Titles to the applicant and to every person who has filed a claim adverse to or inconsistent with the claim set out in the application.

Copies to be sent to interested parties

(3) Any person aggrieved by the written findings of the Director of Titles may within fifteen days after the date of the mailing of the copies under subsection 2 appeal to a judge of the Supreme Court who may decide the matter on the evidence before him or direct the trial of an issue. R.S.O. 1960, c. 48, s. 9 (1-3).

Appeal

(4) Notice of an appeal under this section shall be served upon the Director of Titles within the period of fifteen days mentioned in subsection 3, and, when that period has elapsed and no notice of appeal has been served upon the Director of Titles, or if an appeal has been taken and disposed of, the Director of Titles may issue a certificate of title or dismiss the application, as the case may be. 1961-62, c. 13, s. 4.

Disposition of application

(5) A certificate of title shall bear the signature and seal of the Director of Titles. R.S.O. 1960, c. 48, s. 9 (5).

Signature and seal

**13.** Where the Director of Titles is able to give a certificate of title to only part of the land mentioned in the application, the application may be amended accordingly. R.S.O. 1960, c. 48, s. 10.

Certificate to part of land

**14.** The Director of Titles may order an applicant or any person who has filed a claim adverse to or inconsistent with the claim set out in the application to pay the costs or part of the costs of any proceedings before him or investigations by him and may direct that the same be taxed by the taxing officer of the Supreme Court having jurisdiction where the land is situate. R.S.O. 1960, c. 48, s. 11.

Director may make order as to costs

**15.** A certificate of title shall be registered by the Director of Titles in the registry office of the registry division in which the land is situate. R.S.O. 1960, c. 48, s. 12.

Registration of certificate

**16.** Upon registration under section 15, a certificate of title is conclusive as of the day, hour and minute named therein that the title of the owner of the land described therein is absolute and indefeasible as regards the Crown and all persons whomsoever, subject only to the exceptions, limitations, qualifications, reservations and conditions, covenants, restrictions, charges, mortgages, liens and other encumbrances mentioned therein, and is conclusive that every application, notice, publication, proceeding and act that ought to have been made, given or done before the making of the certificate has been made, given or done in accordance with this Act. 1961-62, c. 13, s. 5.

Effect of certificate of title



Conditions  
precedent  
to registra-  
tion of plan

**17.**—(1) No plan of subdivision of land to which this Act applies and that is in a certification area shall be registered unless the title of the owner of the land has been certified under this Act or unless the owner has derived title through a previous owner whose title to the land was certified under this Act not more than five years before the date of registration of the plan. R.S.O. 1960, c. 48, s. 14 (1); 1965, c. 13, s. 2.

Where  
subs. 1  
not to apply

(2) Subsection 1 does not apply to a plan of subdivision,

- (a) where the land shown thereon is owned by the Crown or by any agency of the Crown;
- (b) where the land shown thereon is owned by The Hydro-Electric Power Commission of Ontario;
- (c) where all the land shown thereon was acquired by expropriation or on account of arrears of taxes by and is owned by a municipal corporation or by a local board as defined in *The Department of Municipal Affairs Act*;
- (d) where the land shown thereon is owned by a board of harbour commissioners;
- (e) prepared under *The Registry Act* and commonly known as a "judge's plan"; or
- (f) that is a subdivision of a plan that was registered before the area in which the land is situate was designated as a certification area in which no land has been sold, or, whether or not land has been sold, the changes to be effected by the resubdivision are, in the opinion of the Director of Titles, of a minor nature. R.S.O. 1960, c. 48, s. 14 (2); 1961-62, c. 13, s. 6 (1).

R.S.O. 1970,  
c. 118

R.S.O. 1970,  
c. 409

Idem  
R.S.O. 1970,  
c. 453

(3) Subsection 1 does not apply to,

- (a) a plan of a survey under Part VIII of *The Surveys Act* or a predecessor thereof; or
- (b) a plan of a survey under section 89 or 90 of *The Registry Act* or a predecessor thereof. 1961-62, c. 13, s. 6 (2); 1970, c. 37, s. 2.

Certification  
of Titles  
Assurance  
Fund

**18.**—(1) An assurance fund, to be known as The Certification of Titles Assurance Fund, shall be formed to compensate persons who may be wrongfully deprived of land or some estate or interest therein by reason of the title to the land being certified under this Act. R.S.O. 1960, c. 48, s. 15 (1); 1961-62, c. 13, s. 7 (1).

Constitution  
of fund

(2) In order to constitute such a fund, every applicant shall pay on the making of a certificate of title under this Act, in addition to all other fees, an amount of money equal to one-tenth of 1 per cent of the value of the land described in the certificate.

(3) Where there are buildings on the land, the value of the land shall include the value of the buildings.

Buildings

(4) Where the amount calculated under subsection 2 exceeds \$300, the amount payable is \$300.

Maximum payment

(5) Where the amount calculated under subsection 2 is less than \$1, the amount payable is \$1.

Minimum payment

(6) The value of the land shall be ascertained as of the date of the application by the oath of the applicant.

Valuation of land

(7) If the Director of Titles is not satisfied as to the correctness of the value stated by the oath of an applicant, he may require the affidavit in that behalf of a valuator and such affidavit is conclusive.

Proof of value

(8) The Director of Titles may require an applicant to indemnify the assurance fund against loss by a bond or covenant to Her Majesty either with or without sureties or by such other security as he considers proper. R.S.O. 1960, c. 48, s. 15 (2-8).

Applicant may be required to indemnify fund

(9) The moneys payable under this section shall be paid into the Supreme Court with the privity of the accountant of the court and shall be placed to the credit of an account entitled "The Certification of Titles Assurance Fund Account" and, subject to subsection 10, shall be invested from time to time under the direction of the Finance Committee of the Supreme Court and such of the interest and income derived therefrom shall be credited to the same account as the Finance Committee of the Supreme Court from time to time determines. R.S.O. 1960, c. 48, s. 15 (9); 1961-62, c. 13, s. 7 (2).

Money to be paid into court

(10) The moneys in court at the credit of the assurance fund shall on his demand be paid to the Treasurer of Ontario. R.S.O. 1960, c. 48, s. 15 (10).

Payment out of fund

**19.**—(1) Where, by virtue of section 16, a person is deprived of any interest in land, he is entitled to recover what is just by way of compensation out of The Certification of Titles Assurance Fund, so far as it is sufficient for that purpose having reference to other charges thereon, if the application is made within six years from the time of having been so deprived, or in the case of a person under the disability of infancy, mental incompetency or unsoundness of mind, within six years from the date at which the disability ceased.

Claim against Fund

(2) Where a claim is made under subsection 1 in respect of land patented as mining land or in respect of land whose chief value is the ores, mines or minerals therein and it appears that the claimant is entitled to compensation, the entire value of the land shall not be taken at a greater sum than twice the amount that was paid for the original grant from the Crown.

Mining lands

Application  
for payment

(3) A person claiming to be entitled to payment of compensation out of The Certification of Titles Assurance Fund shall apply to the Director of Titles who shall make a recommendation to the Director of Land Registration as to the amount, if any, that should be paid.

Determina-  
tion of  
payment

(4) The liability of The Certification of Titles Assurance Fund for compensation and the amount of compensation shall, subject to appeal to a judge of a county or district court and from him to the Supreme Court, be determined by the Director of Land Registration, and the costs of the proceedings under this section shall be in the discretion of the Director of Land Registration, the judge or the Supreme Court, as the case may be.

Notice

(5) The Director of Land Registration shall serve notice of his determination under subsection 4 by registered mail on the claimant.

Time for  
appeal

(6) Where the Director of Land Registration determines that compensation should be paid, the claimant, if he intends to appeal, shall, within a period of twenty days after the date of mailing of the notice under subsection 5, serve on the Director of Land Registration notice of his intention to appeal, and the Director of Land Registration shall not certify under subsection 7 the amount to the Treasurer of Ontario if a notice of appeal is received within that period or until after the expiry of that period if no notice of appeal is received.

Payment  
out of Fund

(7) Subject to subsection 6, the Director of Land Registration shall certify to the Treasurer of Ontario any amount found to be payable under this section and, upon receipt of the certificate of the Director of Land Registration, the Treasurer shall pay the amount to the person entitled thereto.

Liability  
for fraud or  
misrepresenta-  
tion

(8) The Director of Land Registration may, by action in his own name, recover for the benefit of The Certification of Titles Assurance Fund any loss incurred by the Fund as a result of the fraud or misrepresentation of any person. 1970, c. 37, s. 3 (1), *amended*.

Application  
of section

(9) This section does not apply in respect of applications for payment of compensation made before the 26th day of June, 1970. 1970, c. 37, s. 3 (2), *amended*.

Where  
death or  
change of  
interest  
occurs

**20.** Proceedings under this Act shall not abate or be suspended by any death or change of interest, but in any such event the Director of Titles may require notice to be given to persons becoming interested, or may make an order for discontinuing, suspending or carrying on the proceedings or otherwise as he considers proper. R.S.O. 1960, c. 48, s. 17.

**21.** The Lieutenant Governor in Council may make regulations, Regulations

- (*a*) prescribing the deposit to be made on applications;
  - (*b*) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;
  - (*c*) prescribing forms and providing for their use;
  - (*d*) designating certification areas for the purposes of subsection 1 of section 17;
  - (*e*) prescribing the powers and duties of title examiners under this Act;
  - (*f*) prescribing a code of standards and procedures for surveys made for the purposes of this Act;
  - (*g*) prescribing administrative procedures for the purposes of this Act;
  - (*h*) prescribing the procedures to be followed by registrars of deeds with respect to matters under this Act;
  - (*i*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 48, s. 18; 1961-62, c. 13, s. 8.
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CHAPTER 60

The Change of Name Act

1. In this Act,

(a) “applicant” means a person applying for a change of name under this Act;

(b) “application” means an application for a change of name under this Act;

(c) “change” means any change by way of alteration, substitution, addition or abandonment;

(d) “child” includes a child adopted under the laws of Ontario;

(e) “given name” includes a Christian name and a baptismal name;

(f) “name” includes a given name and a surname;

(g) “Registrar General” means the Registrar General under *The Vital Statistics Act*;

R.S.O. 1970, c. 483

(h) “surname” includes a family name and patronymic.

R.S.O. 1960, c. 49, s. 1.
- 2.—(1) Subject to section 13 of *The Vital Statistics Act* and section 78 of *The Child Welfare Act* and except in the case of a change of surname to that of her husband by a woman upon her marriage and except in the case of the adoption of her maiden name by a woman upon the annulment or dissolution of her marriage, a person shall change his name only under this Act.

Compliance with Act  
R.S.O. 1970, cc. 483, 64

(2) Nothing in this Act shall be deemed to affect any change of name effected under any right that existed at law before the 26th day of June, 1939.

Saving

(3) Any British subject of the full age of twenty-one years who effected a change of name in Ontario under a right that existed at law before the 26th day of June, 1939, may make an application under this Act to change his name from the name he bore before the change to the name he bears as a result of the change, as though the change had not been effected. R.S.O. 1960, c. 49, s. 2.

Application where name changed before June 26, 1939
- 3.—(1) Any person who is a British subject and who is at least eighteen years of age, except a married woman, may make an application.

Who may apply

(2) Where the applicant is an infant, he shall be deemed to be of full age for all purposes of this Act. R.S.O. 1960, c. 49, s. 3.

Infants deemed of full age

Application  
by married  
man

**4.—**(1) Where a married man applies for a change of his surname, he shall also apply for a change of the surnames of his wife and of all of his or their unmarried infant children.

Idem

(2) A married man may apply for a change of the given names of his wife and any or all of his or their unmarried infant children. R.S.O. 1960, c. 49, s. 4.

Application  
by widower  
or widow

**5.—**(1) Where a widower or widow applies for a change of surname, he or she shall also apply for a change of the surname of all of his or her unmarried infant children.

Idem

(2) A widower or widow may apply for a change of the given name or names of any or all of his or her unmarried infant children. R.S.O. 1960, c. 49, s. 5.

Application  
by divorced  
person on  
behalf of  
children

**6.—**(1) A person whose marriage has been dissolved may make an application for a change of the name or names of any or all of his unmarried infant children of whom he has lawful custody.

Proof  
required

(2) An application under this section shall be accompanied by such proof that the marriage has been dissolved and that the applicant has lawful custody of the children named in the application as the judge may require.

Consent of  
other  
parent

(3) No application under this section shall be granted unless the other parent, if living, of the child or children is served with notice of the application and consents to the change of name.

Application  
by divorced  
woman who  
remarries

(4) Notwithstanding section 3, a woman whose marriage has been dissolved and who remarries may apply under this section for a change of the surname of her child or children to her surname on remarriage, but no such application shall be granted unless her husband, if living, consents. R.S.O. 1960, c. 49, s. 6.

Application  
by un-  
married  
mother

**7.** Where an unmarried mother makes an application, she may also make an application for any of her unmarried infant children of whom she has lawful custody. 1966, c. 15, s. 1.

Application  
by mother  
in certain  
circum-  
stances

**8.** Notwithstanding section 3, an unmarried mother who marries, or a widowed mother who remarries, may make an application, with the consent of her husband if living, for a change of the surname of her unmarried infant children, not being her husband's children, so that their surname shall be her surname by marriage. R.S.O. 1960, c. 49, s. 7.

Application  
by deserted  
wife

**9.** Notwithstanding section 3, a married woman who is deserted by her husband may apply for a change of name, and where she applies for a change of surname she may also apply for a change of the name or names of any or all of her unmarried infant children of

whom she has custody, but no such application shall be granted unless her husband is served with notice of the application and consents to the change of name. R.S.O. 1960, c. 49, s. 8.

**10.**—(1) Where an application includes an application for a change of the name of the wife of the applicant or of any unmarried infant children of the age of fourteen years or over, the consent in writing of all such persons shall be obtained, and all such persons shall appear upon the hearing of the application, provided that where a wife has, in the opinion of the judge, been living apart from her husband for a period of five years immediately before the application, the judge may hear the application in her absence and without her consent, in which case no change of her name shall be effected.

Consent of wife and children

(2) Where the consent of any person is required under subsection 3 or 4 of section 6, section 8 or section 9, the consent in writing of all such persons shall be obtained, and all such persons shall appear upon the hearing of the application.

Consent of other parent or husband

(3) Notwithstanding subsection 2, where the judge is satisfied that the other parent in the case of an application under section 6, or the husband in the case of an application under section 9, does not contribute to the support of the applicant or the children on whose behalf the application is made, or cannot be found, or is incapable of giving such consent, or for any other reason is a person whose consent ought to be dispensed with, the judge may dispense with the service of the notice of the application on such person and may hear the application in his absence and without his consent. R.S.O. 1960, c. 49, s. 9.

Dispensing with consent

**11.**—(1) Every application shall be made to a judge of the county or district court of the county or district in which the applicant has resided for a period of one year immediately before the making of the application, and shall be heard at such time and place as the judge may appoint in writing.

Application to judge

(2) Where the judge who has appointed a time and place for the hearing of the application becomes ill or dies or for any other reason is unable to hear the application at the time and place so appointed, the application may be heard by another judge of the same county or district court or by any judge who is for the time being acting as a judge of such court. R.S.O. 1960, c. 49, s. 10.

Where judge unable to hear application

**12.**—(1) Notwithstanding subsection 1 of section 11, the applicant may apply to a judge of the county or district court in the county or district in which he resides for authority to make application without having resided in such county or district for a period of one year immediately before the application.

Application where applicant has not resided in county or district for one year



Idem

(2) The judge shall inquire into the circumstances, and, if he is satisfied that the applicant would otherwise suffer hardship, he may make an order authorizing the applicant to make application forthwith and the order suffices in the stead of the affidavit required by subsection 2 of section 13 in so far as that affidavit refers to residence.

Idem

(3) The judge may in the order require the applicant to publish, in addition to the notice required by subsection 1 of section 14, such additional notice in such counties or districts as he deems necessary, and an affidavit as to publication of such additional notice shall accompany the application for a change of name. R.S.O. 1960, c. 49, s. 11.

Particulars  
of  
application

**13.**—(1) Every application shall set forth,

- (a) the address and the date and place of birth of the applicant;
- (b) where the applicant is a married man, the maiden name in full of his wife, and the date and place of marriage;
- (c) the name in full of his father, and, where the applicant is a married man, the name in full of his wife's father;
- (d) the maiden name in full of his mother, and, where the applicant is a married man, the maiden name in full of his wife's mother;
- (e) that he is a British subject by birth or as the case may be;
- (f) his occupation, profession or calling;
- (g) whether he has been convicted of a criminal offence and the particulars of any such offence;
- (h) a statement containing full particulars of any judgment or action pending against him, or any chattel mortgage, lien or other registered encumbrance against his personal property, or, if none, a statement to that effect;
- (i) the name proposed to be adopted;
- (j) a statement containing full particulars of any change of name effected previously, or, if none, a statement to that effect;
- (k) the names, dates and places of birth and other similar particulars with respect to all other persons whose names may be changed as a result of the application;
- (l) a statement of the reasons for desiring the change of name.

(2) Every application shall be accompanied by an affidavit of the applicant deposing,

Application  
to be ac-  
companied  
by affidavit

- (a) that he has resided in the county or district in which the application is made for a period of not less than one year immediately before the making of the application;
- (b) that the statements contained in the application are true; and
- (c) that the application is made by the applicant in good faith and for no improper purpose. R.S.O. 1960, c. 49, s. 12 (1, 2).

(3) Every application shall be accompanied by,

Certificate  
as to  
executions  
and bank-  
ruptcy

- (a) a certificate of the sheriff of the county or district in which the application is made and of every other county or district that the judge directs, as to the existence of any unsatisfied executions in his hands against the property of each person of the full age of twenty-one years whose name may be changed as a result of the application;
- (b) a certificate of the Registrar in Bankruptcy of the Supreme Court of Ontario as to the appearance in the index book kept pursuant to section 167 of the *Bankruptcy Act* (Canada) of the name of each person of the full age of twenty-one years whose name may be changed as a result of the application; and
- (c) where practicable, a certificate of the registration of the birth of the applicant and of each other person whose name may be changed as a result of the application and a certificate of the registration of the marriage where the spouse is named in the application. R.S.O. 1960, c. 49, s. 12 (3); 1968-69, c. 8, s. 1.

R.S.C. 1952,  
c. 14

**14.—**(1) Every applicant shall publish once in *The Ontario Gazette* and once a week for three consecutive weeks in a newspaper having general circulation in the locality in which he resides, a notice of the application stating the name and address and proposed name of every person whose name may be changed as a result of the application, and the time and place of the hearing of the application.

Notice of  
application

(2) No application shall be heard until the expiration of fourteen days after the date of the last publication of the notice.

Time of  
application

(3) A judge may by order dispense with the necessity of publishing notice of the application as required by subsection 1 if, in his opinion,

Where  
notice of  
application  
may be  
dispensed  
with

- (a) the applicant would be unduly prejudiced or embarrassed by such publication;

- (b) the change of name applied for is of a minor character; or
- (c) the applicant has been commonly known under the name applied for. R.S.O. 1960, c. 49, s. 13.

Documents  
to be filed

**15.** Every applicant shall file with the clerk of the court in which the application is made,

- (a) the application with the affidavit referred to in subsection 2 of section 13 in duplicate;
- (b) the certificates required under subsection 3 of section 13;
- (c) an affidavit as to publication of the notice of the application or a notarial copy of the order made under subsection 3 of section 14 dispensing with such publication;
- (d) the appointment for the hearing; and
- (e) if the applicant is not a British subject by birth, a notarial copy of the certificate establishing that he is a British subject. R.S.O. 1960, c. 49, s. 14.

Hearing

**16.**—(1) Upon the hearing, the judge may require the applicant, any person whose name may be changed as a result of the application, or any other person appearing upon the hearing to give evidence under oath, and may examine or cross-examine any such person or permit any such person to be examined or cross-examined.

Objections

(2) Any person who objects to a change of name and any person who desires to furnish the court with any information regarding the application or any circumstances connected therewith may appear upon the hearing of the application and shall be heard. R.S.O. 1960, c. 49, s. 15.

Refusal of  
application

**17.**—(1) Where the judge is of opinion that the name that the applicant seeks to adopt is the same as the name of another person or resembles the name of another person to such an extent that the change applied for might reasonably cause mistake or confusion or be a cause of embarrassment or inconvenience to such person, or that the change of name is sought for any improper purpose, or is on any other ground objectionable, or that the application should be refused for any other reason, he shall refuse the application.

Granting of  
application

(2) Where the judge, upon consideration of the application, the material filed and any other evidence adduced, is of opinion that the application should be granted, he may make an order effecting the change of name.

(3) An order made under this section may provide for such changes of names as the court considers proper having regard to the nature of the application, the relationship and status of other persons mentioned in the application and all other relevant circumstances, and every such order has effect according to the tenor thereof. R.S.O. 1960, c. 49, s. 16.

Scope of  
order

**18.**—(1) The clerk of the court shall enter the order and transmit a certified copy of the order, together with a duplicate original of the application and of the verifying affidavit and any certificate of registration of birth or marriage or the particulars contained therein, to the Registrar General. R.S.O. 1960, c. 49, s. 17; 1968-69, c. 8, s. 2 (1).

Certified  
copy to  
Registrar  
General

(2) Where the Registrar General receives a certificate of birth or marriage under subsection 1, the Registrar General shall,

Return of  
certificates

(a) where the certificate was issued in respect of a birth or marriage that was registered in Ontario, reissue the certificate in accordance with section 26 of *The Vital Statistics Act*, without payment of any fee therefor, and send the reissued certificate to the applicant;

R.S.O. 1970,  
c. 483

(b) where the certificate was issued in respect of a birth or marriage that was registered outside Ontario, return the certificate to the applicant. 1968-69, c. 8, s. 2 (2).

**19.**—(1) The clerk of the court shall send to the appropriate sheriff or court clerk full particulars of the order made and of any judgment, pending action, chattel mortgage, lien or other registered encumbrance shown upon the application.

Notice of  
judgment,  
etc., sent  
to sheriff  
or clerk

(2) Such sheriff or court clerk shall enter and reindex such judgment, pending action, chattel mortgage, lien or other registered encumbrance under the name as changed. R.S.O. 1960, c. 49, s. 18.

Idem

**20.** Any person may, upon payment of the prescribed fee, obtain from the clerk of the court in which the order was made a certificate of any order effecting a change of name, and the certificate is for all purposes conclusive evidence of its contents. R.S.O. 1960, c. 49, s. 19.

Certificates  
issued to  
applicants

**21.** Subject to *The Vital Statistics Act*, without restricting the effect that a change of name may have at law, any person whose name has been changed under this Act, upon production of a certificate obtained under section 20 and upon satisfactory proof of identity, is entitled to have a memorandum of the change of name endorsed on any record, certificate, instrument, document, contract or writing, whether public or private, upon payment of such fee as is prescribed therefor by or under any statute. R.S.O. 1960, c. 49, s. 20.

Substitution  
of new  
name in  
documents



Application  
for annul-  
ment

**22.**—(1) Any person who has reason to believe that an order effecting a change of name has been obtained by fraud or misrepresentation or for an improper purpose may apply to a judge of the county or district court in which the order was made for an annulment of the order.

Affidavit  
giving  
reasons

(2) Every application for an annulment shall be accompanied by an affidavit of the person making the application in which his reasons for believing that the order was obtained by fraud or misrepresentation or for any improper purpose shall be set forth.

Hearing of  
application

(3) The judge may refuse the application without hearing further representations or evidence or may direct that the person applying for the annulment and any other persons shall be heard at such time and place as he determines and that notice of the hearing shall be given to such persons and in such manner as he may direct.

Annulment  
of order

(4) If the judge is satisfied that the order was obtained by fraud or misrepresentation or for an improper purpose, he may order the annulment of the order in whole or in part.

Clerk to  
note  
annulment

(5) The clerk of the court shall endorse a memorandum of the annulling order upon the entry of the order annulled in whole or in part and shall send a certified copy of the annulling order to the Registrar General, and, where appropriate by reason of section 19, to the proper sheriff or court clerk who shall amend his records to accord with the order.

Where  
change  
of name  
annulled

(6) Where a change of name has been annulled, the Registrar General may by order require any person to whom a certificate has been issued under section 20 to forthwith deliver up the certificate, and any person who refuses or neglects to comply with such order is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. R.S.O. 1960, c. 49, s. 21.

Fraud or  
misrepresen-  
tation

**23.**—(1) Any person who by fraud or misrepresentation obtains a change of name under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months.

Use of  
refused  
name

(2) Any person whose application for a change of name is refused under subsection 1 of section 17 and who uses the name he sought to adopt in such application is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months.

Second and  
subsequent  
offences

(3) Any person who, after having been convicted of an offence against this Act, again offends against this Act is liable to a fine of not more than double the maximum fine provided for the offence. R.S.O. 1960, c. 49, s. 22.



**24.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing forms of applications, affidavits and certificates;
  - (b) prescribing the fees payable upon any application and upon any certificate, search or other matter required or permitted to be given or done under this Act and to whom such fees are payable;
  - (c) providing for the return of any fee upon an application or part of such fee where the application is refused;
  - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 49, s. 23.
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## CHAPTER 61

### The Charitable Gifts Act

**1.** In this Act, “person” includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law. R.S.O. 1960, c. 50, s. 1. Interpretation

**2.—(1)** Notwithstanding the provisions of any general or special Act, letters patent, by-law, will, codicil, trust deed, agreement or other instrument, wherever an interest in a business that is carried on for gain or profit is given to or vested in a person in any capacity for any religious, charitable, educational or public purpose, such person has power to dispose of and shall dispose of such portion thereof that represents more than a 10 per cent interest in such business. Where interest to be disposed of

(2) Subsection 1 does not apply to an interest in a business given to or vested in any organization of any religious denomination. Exception

(3) Where an interest to which subsection 1 applies is subject to a life interest, life annuity or income for life, so much of the interest as is necessary to provide such life interest, life annuity or income for life shall be deemed to be given or vested when such life interest, life annuity or income for life ceases to exist. Life interests, etc.

(4) For the purposes of this Act, a person shall be deemed to have an interest in a business, Meaning of “interest”

- (a) if he is a part owner of the business;
- (b) if he holds or controls, directly or indirectly through a combination or series of two or more persons, one or more shares in a corporation that owns or controls or partly owns or controls the business; or
- (c) if he holds or controls, directly or indirectly through a combination or series of two or more persons, one or more bonds, debentures, mortgages or other securities upon any asset of the business.

(5) For the purposes of this Act but subject to subsection 3, an interest in a business shall be deemed to be given to or vested in a person for a religious, charitable, educational or public purpose so long as the interest or the proceeds thereof or the income therefrom is to be used for any such purpose at any time and Idem

notwithstanding that before any such use is made thereof the interest or the proceeds thereof or the income therefrom is to pass into or through the hands of one or more persons or is subject to a life or other intermediary interest. R.S.O. 1960, c. 50, s. 2.

Where  
interest  
to be  
disposed  
of, wills

**3.—**(1) Where an interest to which section 2 applies was given or vested pursuant to a will or other testamentary instrument, section 2 shall be complied with within seven years after the death of the testator.

Idem,  
trust deeds,  
etc.

(2) Where an interest to which section 2 applies was given or vested pursuant to an instrument other than a will or other testamentary instrument, section 2 shall be complied with within seven years after the date of the instrument.

Extension  
of time

(3) A judge of the Supreme Court may from time to time extend the period mentioned in subsection 1 or 2 for such further period as he considers proper, if he is satisfied that the extension will benefit the religious, educational, charitable or public purpose concerned. R.S.O. 1960, c. 50, s. 3.

Determina-  
tion of  
profits

**4.—**(1) Where and so long as an interest to which section 2 applies represents more than a 50 per cent interest in the business, the person to whom it is given or in whom it is vested and the person having control of the management of the business or his nominee and the Public Trustee shall on or before the 30th day of June in each year determine jointly the amount of the profits earned by the business in its fiscal year ending in the calendar year next preceding.

Distribution  
of profits

(2) The business shall pay to the person to whom the interest is given or in whom it is vested his share of the then undistributed profits of the business in the amounts and on the dates determined jointly by the persons mentioned in subsection 1.

Annual  
return

(3) For the purposes of this section, the person to whom the interest is given or in whom it is vested shall on or before the 31st day of March in each such year deliver to the Public Trustee a return with respect to its fiscal year ending in the calendar year next preceding showing,

- (a) the assets and liabilities of the business;
- (b) all accounts of profit and loss of the business;
- (c) the particulars of any fee paid to any director; and
- (d) where the amount of salary and other remuneration paid to any person is \$8,000 or more, the particulars thereof,

and the return shall be verified by the certificate of an officer or the auditor of the business that the statements therein are true.

(4) For the purposes of this section, the Public Trustee may require of any person such further or other information and may make such examination of the accounts and records of the business as he considers necessary. Examination of accounts, etc.

(5) If the persons mentioned in subsection 1 fail to determine jointly any matter mentioned in subsection 1 or 2, the matter shall be determined by a judge of the Supreme Court, and in determining the amount of the profits of the business the judge may disallow in whole or in part any deduction, expenditure, expense, reserve, allowance or other sum that he considers to be unnecessary, excessive or improper having regard to the nature of the business and its financial position. R.S.O. 1960, c. 50, s. 4. Determination by Supreme Court

**5.** Where an interest in a business is being disposed of pursuant to section 2, any person acquiring any portion of such interest for other than religious, charitable, educational or public purposes may, subject to the approval of a judge of the Supreme Court as to the consideration for and the terms and conditions of the acquisition, so acquire such portion notwithstanding that he is the person disposing of such interest or is an officer, director, agent or employee of such person. R.S.O. 1960, c. 50, s. 5. Rights of acquisition

**6.** The proceeds of any disposition pursuant to section 2 may be invested only in investments authorized by *The Insurance Act* for the investment of the funds of joint stock insurance companies, but no such investment shall be made that results in the person making the investment holding more than a 10 per cent interest in any one business. R.S.O. 1960, c. 50, s. 6, *amended*. Investment of proceeds  
R.S.O. 1970, c. 224

**7.—(1)** The Treasurer of Ontario may appoint any person to make such investigation as he considers expedient respecting any interest in any business that has been given to or vested in any person for any religious, charitable, educational or public purpose or respecting any person to or in whom any such interest has been given or vested. Investigation

(2) Every person so appointed has the same powers as may be given to a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 50, s. 7. Powers of investigator  
R.S.O. 1970, c. 379

**8.** Upon the application of the Minister of Justice and Attorney General or any person interested, a judge of the Supreme Court may make such orders as he considers proper to carry out the intent of this Act or to determine any matter arising under it. R.S.O. 1960, c. 50, s. 8, *amended*. Powers of court



Offences

**9.** Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$5,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1960, c. 50, s. 9.

R.S.O. 1970,  
c. 63, not  
affected

**10.** Nothing in this Act affects the operation of *The Charities Accounting Act*. R.S.O. 1960, c. 50, s. 10.

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## CHAPTER 62

## The Charitable Institutions Act

## 1. In this Act,

Interpre-  
tation

- (a) “approved charitable institution” means a charitable institution approved under section 3;
- (b) “approved corporation” means a corporation approved under section 2;
- (c) “charitable institution” means a building or buildings maintained and operated by an approved corporation for persons requiring residential, sheltered, specialized or group care, but does not include,
  - (i) a children’s institution under *The Children’s Institutions Act*, R.S.O. 1970, c. 66
  - (ii) a home or joint home under *The Homes for the Aged and Rest Homes Act*, R.S.O. 1970, c. 206
  - (iii) a home for retarded persons under *The Homes for Retarded Persons Act*, R.S.O. 1970, c. 204
  - (iv) a house that is registered under *The Maternity Boarding Houses Act*, R.S.O. 1970, c. 264
  - (v) an institution under *The Mental Hospitals Act*, R.S.O. 1970, c. 270
  - (vi) a private hospital under *The Private Hospitals Act*, R.S.O. 1970, c. 361
  - (vii) a sanitarium under *The Private Sanitaria Act*, R.S.O. 1970, c. 363
  - (viii) a hospital under *The Public Hospitals Act*, R.S.O. 1970, c. 378
  - (ix) a sanatorium under *The Sanatoria for Consumptives Act*, R.S.O. 1970, c. 422
- (d) “correctional institution” means a charitable institution maintained and operated primarily for persons,
  - (i) who have been placed on probation under *The Probation Act*, the *Criminal Code* (Canada) or the *Juvenile Delinquents Act* (Canada), or R.S.O. 1970, c. 364  
1953-54, c. 51 (Can.)  
R.S.C. 1952, c. 160
  - (ii) who have been released on parole under *The Department of Correctional Services Act* or the *Parole Act* (Canada), or R.S.O. 1970, c. 110  
1958, c. 38 (Can.)
  - (iii) who are admitted to the institution for correctional purposes;
- (e) “hostel” means a charitable institution for the temporary care of transient or homeless persons;
- (f) “Minister” means the Minister of Social and Family Services;

- (g) "provincial supervisor" means a child welfare supervisor or a welfare institutions supervisor and includes any other employee of the Department of Social and Family Services who is designated by the Minister as a provincial supervisor for the purposes of this Act;
- (h) "regulations" means the regulations made under this Act. 1962-63, c. 11, s. 1; 1968, c. 11, s. 1, *amended*.

Approval  
of cor-  
porations

R.S.O. 1970,  
c. 89

**2.** The Lieutenant Governor in Council may approve for the purposes of this Act any corporation without share capital having objects of a charitable nature,

- (a) to which Part III of *The Corporations Act* applies; or
- (b) that is incorporated under a general or special Act of the Parliament of Canada. 1968, c. 11, s. 2.

Approval of  
charitable  
institutions

**3.** The Lieutenant Governor in Council may approve charitable institutions for the purposes of this Act and such approval may take effect on any date fixed by the Lieutenant Governor in Council that is prior to the date on which the approval is given, but in no case shall the date on which the approval takes effect precede the date of the approval given under section 2 to the corporation maintaining and operating the charitable institution. 1962-63, c. 11, s. 3; 1968, c. 11, s. 3.

Restrictions  
upon  
approved  
corporations

**4.—(1)** No approved corporation shall,

- (a) maintain or operate any building or part thereof as a charitable institution until the building is approved under section 3;
- (b) change its name or the name of any charitable institution maintained and operated by it without the approval in writing of the Minister;
- (c) erect a new building to be used as a charitable institution until the site and plans thereof are approved in writing by the Minister, or erect an addition to an existing building used or to be used as a charitable institution until the plans thereof are approved in writing by the Minister;
- (d) purchase or otherwise acquire any building to be used by it as a charitable institution without the approval in writing of the Minister; or
- (e) change the site of, sell or otherwise dispose of any part of, or structurally alter, any charitable institution in respect of which the approved corporation has received payment of a grant under section 5 or 6, or any predecessor thereof, without the approval in writing of the Minister.

(2) No by-law of an approved corporation with respect to a charitable institution has force or effect until it is approved in writing by the Minister. 1962-63, c. 11, s. 4.

Approval of  
by-laws

**5.** Where the site and plans of a new building or the plans of an addition to an existing building used or to be used as a charitable institution have been approved by the Minister under clause *c* of subsection 1 of section 4, the Lieutenant Governor in Council may, out of the moneys that are appropriated therefor by the Legislature, direct payment to the approved corporation erecting the new building or the addition,

Grants for  
construction  
of buildings  
or additions

- (a) where the new building or the addition is to be used as a charitable institution other than a hostel, of an amount equal to the cost to the approved corporation of the new building or the addition, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the new building or the addition at the rate of \$5,000 per bed; and
- (b) where the new building or the addition is to be used as a hostel, of an amount equal to 30 per cent of the cost to the approved corporation of the new building or the addition, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the new building at the rate of \$1,500 per bed, but no payment shall be made under this clause unless the council of the municipality in which the new building or the addition is situated directs payment to the approved corporation erecting the new building or the addition of an amount equal to at least 20 per cent of the cost thereof to the approved corporation. 1966, c. 16, s. 1.

**6.** Where the acquisition of a building to be used as a charitable institution other than a hostel has been approved by the Minister under clause *d* of subsection 1 of section 4, the Lieutenant Governor in Council may, out of the moneys that are appropriated therefor by the Legislature, direct payment to the approved corporation acquiring the building of an amount equal to the cost to the approved corporation of the acquisition, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the building at the rate of \$1,200 per bed. 1966, c. 16, s. 2.

Grants for  
acquisition  
of buildings

**7.** There shall be paid to an approved corporation out of the moneys appropriated therefor by the Legislature an amount equal to 80 per cent of the cost, computed in accordance with the regulations, of the care and maintenance of each person resident in an approved charitable institution other than a hostel, that is maintained and operated by the corporation. 1968, c. 11, s. 4.

Mainten-  
ance grants  
for institu-  
tions other  
than hostels

Inspection  
of books of  
charitable  
institutions

**8.—**(1) A provincial supervisor shall inspect every charitable institution and examine the books of account and any other records of the institution at least once each year, but he may inspect any charitable institution or examine the books of account and the other records at any time.

Inspection  
of books of  
approved  
corporations

(2) A provincial supervisor may inspect the books of account and other records of an approved corporation that pertain to charitable institutions. 1962-63, c. 11, s. 9.

Revocation  
and  
suspension  
of  
approvals

**9.** Any approval given under this Act may be suspended by the Minister or revoked by the Lieutenant Governor in Council at any time. 1962-63, c. 11, s. 10.

Regulations

**10.** The Lieutenant Governor in Council may make regulations,

- (a) specifying the corporations and the charitable institutions that are approved for the purposes of this Act or for the purpose of any regulation;
- (b) specifying the classes of persons that may be cared for in specified charitable institutions;
- (c) prescribing rules governing the establishment, maintenance and operation of charitable institutions or specified charitable institutions and the conduct of the persons cared for therein and the staffs thereof;
- (d) governing the qualifications and the powers and duties of the members of the staffs of charitable institutions or of specified charitable institutions;
- (e) requiring and prescribing medical and other related or ancillary services for the care and treatment of the persons in charitable institutions or specified charitable institutions;
- (f) governing applications by approved corporations for payments under this Act and prescribing the method, time and manner of payment;
- (g) prescribing the manner of computing the cost to approved corporations for the purposes of sections 5 and 6;
- (h) prescribing the manner of computing the cost of the care and maintenance of a person resident in a charitable institution and the maximum amount of the cost to which the Province of Ontario may contribute under section 7;
- (i) prescribing the records to be kept by approved corporations and charitable institutions, the claims and returns to be made to the Minister by approved corporations with respect to charitable institutions and the method,



time and manner in which such claims and returns shall be made and providing penalties for late claims or returns;

- (*j*) providing for the recovery by an approved corporation or the Province of Ontario from a person or his estate of any amount paid by the corporation or by the Province of Ontario to the corporation for the cost of the care and maintenance of the person in a charitable institution and prescribing the circumstances and the manner in which any such recovery may be made;
  - (*k*) prescribing additional powers and duties of provincial supervisors;
  - (*l*) prescribing forms and providing for their use;
  - (*m*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 11, s. 11; 1968, c. 11, s. 6.
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CHAPTER 63

The Charities Accounting Act

1.—(1) Where under the terms of a will or an instrument in writing real or personal property or any right or interest therein or proceeds therefrom have heretofore been given to or vested in, or are hereafter given to or vested in or to be given to or vested in, a person as executor or trustee for a religious, educational, charitable or public purpose, or are to be applied by him to or for any such purpose, such person shall give written notice thereof, personally or by registered letter, to the Public Trustee and to the person, if any, designated in the will or instrument as the beneficiary under the bequest or gift or as the person to receive the bequest or gift from the executor or trustee.

Notice of bequest or donation to be given to Public Trustee

(2) Any corporation incorporated for a religious, educational, charitable or public purpose shall be deemed to be a trustee within the meaning of this Act, its instrument of incorporation shall be deemed to be an instrument in writing within the meaning of this Act, and any real or personal property acquired by it shall be deemed to be property within the meaning of this Act.

Charitable corporations, etc., brought within Act

(3) The notice shall be given, in the case of an instrument other than a will, within one month after it has been executed, and, in the case of a will, within the same period after the death of the testator.

Time for giving notice

(4) No notice under this section is necessary where the trust was completely executed before the 31st day of March, 1914, but the remaining sections of this Act nevertheless apply to every such trust.

Where notice not necessary

(5) The notice shall state the nature of the property coming into the possession or under the control of the executor or trustee and the notice to the Public Trustee shall be accompanied by an attested or notarial copy of the will or other instrument. R.S.O. 1960, c. 52, s. 1.

Contents of notice

2.—(1) Every such executor or trustee shall, from time to time upon request, furnish to the Public Trustee particulars in writing of,

Executor or trustee to furnish information to Public Trustee

- (a) the condition, disposition or such other particulars as are required of the property devised, bequeathed or given or which has come into the hands of the executor or trustee;

- (b) the names and addresses of the executors or trustees; and
- (c) the administration or management of the estate or trust.

Corporation  
to furnish  
information  
to Public  
Trustee

(2) Where such executor or trustee, either directly or indirectly through any person on his behalf or through any corporation or through a series or combination of such persons, corporations or persons and corporations, controls a corporation or the election of the directors thereof through the holding of a majority of the shares thereof or a sufficient number of shares or any class of shares thereof to enable him to exercise such control in fact, or in any other manner whatsoever, the corporation, the officers and manager of such corporation or any of them shall from time to time furnish to the Public Trustee in writing such information concerning the corporation, its operation, assets, profits or losses, and finances as the Public Trustee requests.

Application  
to Supreme  
Court where  
corporation  
involved

(3) A judge of the Supreme Court sitting in chambers, upon the application of the Public Trustee and upon notice to the corporation concerned and to such other person or persons as a judge of the Supreme Court directs, shall inquire into and determine any question relating to the failure to furnish information to the Public Trustee pursuant to subsection 2, and shall inquire into and determine the control of the election of directors or the ownership, control or management of, or any matter affecting, any corporation mentioned in subsection 2, or its operation, assets, profits or losses, and finances and may make such order as is considered necessary or proper to,

- (a) compel the giving of information to the Public Trustee;
- (b) determine who controls the corporation;
- (c) determine who controls the election of the directors of the corporation;
- (d) protect or preserve the assets or financial stability of the corporation and the assets held by such executor or trustee relating to the corporation; and
- (e) ensure the proper operation and management of the corporation and its assets. R.S.O. 1960, c. 52, s. 2.

Auditing  
accounts as  
to charitable  
legacies or  
grants

**3.** Whenever required so to do by the Public Trustee, an executor or trustee shall submit the accounts of his dealings with the property coming into his hands or under his control under the terms of the bequest or gift, to be passed and examined and audited by the judge of the surrogate court of the county or district in which he resides or in which probate was granted. R.S.O. 1960, c. 52, s. 3.

**4. If any such executor or trustee,**

Application  
to Supreme  
Court where  
executor  
or trustee  
in default

- (a) refuses or neglects to comply with any of the provisions of section 1, 2 or 3, or with any of the regulations made under this Act;
- (b) is found to have misapplied or misappropriated any property or fund coming into his hands;
- (c) has made any improper or unauthorized investment of any moneys forming part of the proceeds of any such property or fund; or
- (d) is not applying any property, fund or moneys in the manner directed by the will or instrument,

a judge of the Supreme Court sitting in chambers, upon the application of the Public Trustee made by way of originating notice according to the practice of the court, may make an order,

- (e) directing the executor or trustee to do forthwith or within the time stated in the order anything that he has refused or neglected to do in compliance with section 1, 2 or 3, or with the regulations made under this Act;
- (f) requiring the executor or trustee to pay into court any funds in his hands and to assign and transfer to the Accountant of the Supreme Court, or to a new trustee appointed under clause *g*, any property or securities in his hands or under his control;
- (g) removing such executor or trustee and appointing some other person to act in his stead;
- (h) directing the issue of an attachment against the executor or trustee to the amount of any property or funds as to which he is in default;
- (i) fixing the costs of the application and directing how and by whom they shall be payable;
- (j) giving such directions as to the future investment, disposition and application of any such property, funds or moneys as he deems just and best calculated to carry out the intentions of the testator or donor;
- (k) imposing a penalty by way of fine or imprisonment not exceeding twelve months upon the executor or trustee for any such default or misconduct or for disobedience to any order made under this section;
- (l) appointing an executor or trustee in place of an executor or trustee who has died, or has ceased to act, or has been removed, or has gone out of Ontario, notwithstanding that the will or other instrument creating the trust confers the power to make such an appointment upon another executor or trustee or upon any other person. R.S.O. 1960, c. 52, s. 4.



Regulations

**5.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms of notices and returns to be made under this Act;
- (b) respecting the practice and procedure upon passing the accounts of an executor or trustee under this Act and the tariff of fees and costs to be applicable thereto;
- (c) requiring returns to be made by any such executor or trustee to any department of the Government and the form of such returns;
- (d) regulating the practice and procedure upon applications under section 4;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Practice

(2) Except as otherwise provided by the regulations, the practice and procedure of the Supreme Court and of the surrogate courts, respectively, apply to proceedings under this Act.

When  
surrogate  
registrar  
to transmit  
copy of  
will to  
Public  
Trustee

(3) Where an application is made for letters probate of a will or other testamentary instrument whereby real or personal property or any right or interest therein or proceeds therefrom are given to or vested in a person as executor or administrator for a religious, educational, charitable or public purpose or are to be applied by him to or for any such purpose, the surrogate registrar shall transmit a copy of the will or other instrument to the Public Trustee.

Notice of  
action to  
set aside  
will to be  
served on  
Public  
Trustee

(4) Where an action or other proceeding is brought to set aside, vary or construe any such will or other instrument, written notice thereof shall be served upon the Public Trustee, and if no one appears as representing the religious, educational, charitable or public institution, or if there is no named beneficiary, or a discretion is given to the executor or trustee as to a choice of beneficiaries, the Public Trustee may intervene in the action or other proceeding and has the right to object or consent and to be heard upon any argument as a party to the action or other proceeding. R.S.O. 1960, c. 52, s. 5.

Collection  
of funds  
from the  
public,  
right of  
complaint

**6.**—(1) Any person may complain as to the manner in which a person or organization has solicited or procured funds by way of contribution or gift from the public for any purpose, or as to the manner in which any such funds have been dealt with or disposed of.

Form of  
complaint

(2) Every such complaint shall be in writing and delivered by the complainant to a judge of any county or district court.

(3) Wherever the judge is of opinion that the public interest can be served by an investigation of the matter complained of, he may make an order directing the Public Trustee to make such investigation as the Public Trustee considers proper in the circumstances.

Order for investigation

(4) In making any such investigation, the Public Trustee has and may exercise any of the powers conferred upon him by this Act or that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 52, s. 6 (1-4).

Powers of Public Trustee

R.S.O. 1970, c. 379

(5) The cost of any such investigation, when approved by the Minister of Justice and Attorney General, forms part of the expenses of the administration of justice in Ontario.

Cost of investigation

(6) As soon as the Public Trustee has completed his investigation, he shall report in writing thereon to the Minister of Justice and Attorney General and to the county court judge who ordered the investigation. R.S.O. 1960, c. 52, s. 6 (5, 6), *amended*.

Report of investigation

(7) Upon receipt of the report, the county court judge may order a passing of the accounts in question, in which case section 23 of *The Trustee Act* applies, and the judge may make such order as to the costs of the Public Trustee thereon as he considers proper.

Order for audit

R.S.O. 1970, c. 470

(8) Nothing in this section applies to any religious or fraternal organization or to any person who solicited or procured any funds of any religious or fraternal organization. R.S.O. 1960, c. 52, s. 6 (7, 8).

Where section not to apply

**7.** This Act applies notwithstanding any provision in any will or other instrument excluding its application or giving to an executor or trustee any discretion as to the application of property, funds or the proceeds thereof to religious, educational, charitable or public purposes. R.S.O. 1960, c. 52, s. 7.

Application of Act

**8.** This Act does not apply to or affect or in any way interfere with any right or remedy that any person may have under any other Act or in equity or at common law or otherwise. R.S.O. 1960, c. 52, s. 8.

Other rights and remedies not affected



CHAPTER 64

The Child Welfare Act

INTERPRETATION

1. In this Act,

Interpre-  
tation

- (a) “approved estimate” means the estimate of expenditures of a children’s aid society finally approved under sections 9 to 11;
- (b) “children’s aid society” or “society” means a children’s aid society approved by the Lieutenant Governor in Council under this Act;
- (c) “Director” means the Director of Child Welfare appointed under this Act;
- (d) “local director” means the local director of a children’s aid society appointed under this Act;
- (e) “Minister” means the Minister of Social and Family Services;
- (f) “municipality” means a county, metropolitan municipality, city or separated town, but does not include a city or separated town in a metropolitan municipality, and in a territorial district means a city, town, village, township or improvement district;
- (g) “prescribed” means prescribed by the regulations;
- (h) “regulations” means the regulations made under this Act. 1965, c. 14, s. 1; 1970, c. 96, s. 1.

PART I

OFFICERS, SOCIETIES

2.—(1) The Lieutenant Governor in Council may appoint a person as the Director of Child Welfare.

Appoint-  
ment of  
Director

(2) The Director shall,

Duties of  
Director

- (a) advise and supervise children’s aid societies;
- (b) inspect or direct and supervise the inspection of the operation and records of children’s aid societies;
- (c) exercise the powers and duties of a children’s aid society in any area in which no society is functioning;

- (d) inspect or direct and supervise the inspection of any place in which a child in the care of a society is placed;
- (e) prepare and submit an annual report to the Minister;
- (f) keep books of account of all moneys received by him, showing the receipts and disbursements;
- (g) perform such other duties as are prescribed by this Act or the regulations or by the Lieutenant Governor in Council.

Acting  
Director

(3) Where the Director is absent or there is a vacancy in the office, the powers and duties of the Director shall be exercised and performed by such civil servant as the Minister designates. 1965, c. 14, s. 2.

Investigation

**3.**—(1) The Minister may by order appoint a judge of the county court to make an investigation into any matter,

- (a) relating to the care of a ward of a children's aid society or of the Crown; or
- (b) for the due administration of this Act,

and the person appointed shall report the result of his investigation to the Minister.

Powers of  
investigation  
R.S.O. 1970,  
c. 379

(2) For the purposes of an investigation under subsection 1, the judge has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. 1965, c. 14, s. 3

Appoint-  
ment of  
local  
directors

**4.**—(1) Every children's aid society shall appoint a local director who shall be responsible to the board of directors of the society for the administration and enforcement of this Act and the regulations in the area in which the society has jurisdiction, who shall co-operate with the Director to this end and who shall carry out such other duties as are required of him by the constitution, by-laws and directions of the society. 1965, c. 14, s. 4 (1).

Powers  
of local  
directors,  
etc.

R.S.O. 1970,  
c. 374

(2) Every local director and every person designated by the board of directors of a society has for the purposes of this Act the powers of a constable and a school attendance counsellor, and he shall be deemed to be an officer within the meaning of section 10 of *The Public Authorities Protection Act*, and that section and the other provisions of that Act apply to him in the same manner and to the same extent as they do to the officers mentioned in that section. 1965, c. 14, s. 4 (2), *amended*.

Police  
assistance

**5.** The Director or a local director or any person acting under the authority of either of them may call to his aid in the performance of his duties a member of the police force responsible for policing the area in which the aid is required. 1965, c. 14, s. 5.



**6.**—(1) Every children's aid society shall be incorporated under *The Corporations Act* or a predecessor thereof and shall be approved by the Lieutenant Governor in Council. 1965, c. 14, s. 6 (1). Establishment of societies  
R.S.O. 1970,  
c. 89

(2) Every children's aid society shall be operated for the purposes of,

- (a) investigating allegations or evidence that children may be in need of protection;
- (b) protecting children where necessary;
- (c) providing guidance, counselling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children;
- (d) providing care for children assigned or committed to its care under this or any other Act;
- (e) supervising children assigned to its supervision under this or any other Act;
- (f) placing children for adoption;
- (g) assisting the parents of children born out of wedlock or likely to be born out of wedlock and their children born out of wedlock; and
- (h) any other duties given to it by this or any other Act. 1965, c. 14, s. 6 (2); 1970, c. 96, s. 2.

(3) Every society shall provide at least the standard of services prescribed by the regulations. Standard of services

(4) The by-laws of every society shall contain such provisions as the regulations prescribe, and a certified copy of the by-laws and any amendments thereto shall be filed with the Director forthwith after they are made, and no such by-laws or amendments shall come into operation until they have been approved by the Minister. 1965, c. 14, s. 6 (3, 4). By-laws

**7.**—(1) A children's aid society shall be governed by a board of directors composed of such municipal representatives as are determined under subsections 2 to 6 and the president, one or more vice-presidents, the secretary, the treasurer and such other officers and members as are determined, elected in such manner and for such period as the by-laws of the society provide. Board of directors

(2) Where a children's aid society has jurisdiction in but not outside a city, separated town or metropolitan municipality, the municipal representatives shall be not fewer than four appointed from among themselves by the council of the city, separated town or metropolitan municipality. Municipal representatives

- Idem (3) Where a children's aid society has jurisdiction in a county but not in a city or separated town, the municipal representatives shall be not fewer than four appointed from among themselves by the council of the county.
- Idem (4) Where a children's aid society has jurisdiction in an area that includes a county or part of a county outside a city, separated town or metropolitan municipality,
- (a) one municipal representative shall be appointed from among themselves by the council of each county, city, separated town and metropolitan municipality in the jurisdiction; and
  - (b) the council of the county, city, separated town or metropolitan municipality having the largest population as determined by the last revised assessment rolls shall appoint from among themselves such other municipal representatives as are required, so that the total number of municipal representatives on the board of directors is not fewer than four.
- Idem (5) In subsections 2 to 4, a reference to a city or separated town does not include a city or separated town in a metropolitan municipality.
- Idem (6) Where a children's aid society has jurisdiction in an area that includes a district or part of a district outside a city or metropolitan municipality, the municipal representatives shall be appointed in the manner determined under subsection 4, except that the district welfare administration board or the district child welfare budget board referred to in section 10, as the case may be, shall appoint the representatives required by subsection 4 to be appointed by the council of a county.
- Executive committee (7) The directors shall pass a by-law providing for the election from among their number of an executive committee of nine members, consisting of the president, the treasurer, four municipal representatives and three other directors, and delegating to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the board.
- Quorum (8) A majority of the members of an executive committee constitutes a quorum. 1965, c. 14, s. 7.
- Interpretation **8.**—(1) In this section, "population" means the population as shown by the municipal census taken in the year preceding the year for which an estimate of expenditures is made, subject to such adjustments as are prescribed by the regulations. 1965, c. 14, s. 8 (1).

(2) Every children's aid society shall, before the 15th day of February in each year, prepare in the prescribed form and file with the Director an estimate of its expenditures for operating costs as defined by the regulations for the current year. 1966, c. 17, s. 1. Estimate of expenditures

(3) Where a children's aid society has jurisdiction in more than one municipality, the estimate of expenditures shall have annexed to it a statement in the prescribed form showing the proportion of the estimate of expenditures that is referable to each municipality, and the said proportion shall, Proportion referable to each municipality

- (a) in respect of the cost of services for children in the care of the society, be in the proportion that the number of children taken into protective care in the municipality bears to the total number of children in the care of the society;
- (b) in respect of the cost of services other than services for children in the care of the society, be in the proportion that the population of the municipality bears to the total population of the area in the jurisdiction of the society; and
- (c) where, by arrangement with a municipality, the standard of services provided to the municipality exceeds that provided to any other municipality in the jurisdiction of the society, include the entire cost of the excess,

determined in the manner prescribed by the regulations.

(4) Subsection 3 does not apply where a district welfare administration board has been established. Exception

(5) When the actual costs of the society for any year have been determined, there shall be an adjustment between the estimated costs as submitted in the estimates and the actual costs when so determined, and such adjustment shall be either added to or deducted from the estimates for each municipality to be submitted for the following year. 1965, c. 14, s. 8 (3-5). Adjustment

**9.—**(1) Subject to section 10, the estimate of expenditures of a children's aid society shall be submitted, before the last day of February, to the council of each municipality in the area in which the society has jurisdiction, and, where the estimate is prepared in accordance with the prescribed standards, the municipal council shall, subject to subsection 1 of section 11, grant its approval to the necessary expenditures. 1965, c. 14, s. 9 (1); 1970, c. 96, s. 3 (1). Approval by council

(2) Every estimate of expenditures prepared under section 8 is subject to the Minister's approval and shall be submitted to the Minister after it is approved under subsection 1 and before the Submission to Minister

25th day of April and the Director shall within ten days after the estimate has been submitted to the Minister, recommend to the Minister that the estimate be approved as submitted or that the amount of the estimate be varied.

Notice by  
Director

(3) Where the Director makes a recommendation under subsection 2 that the amount of the estimate be varied, he shall give notice thereof to the children's aid society and to the council of each municipality in the area in which the society has jurisdiction or to the district child welfare budget board, as the case may be.

Approval by  
Minister

(4) The Minister, after the expiration of thirty days from the making of the Director's recommendation under subsection 2, may approve the estimate as submitted or may, subject to subsection 5, vary the amount of the estimate and approve the amount as so varied, except that where the Director recommends that the estimate be approved as submitted, the Minister may approve the estimate as submitted forthwith after the making of the recommendation.

Notice by  
Minister

(5) Where the Minister intends to vary the amount of the estimate and to approve the estimate as so varied, he shall give notice to the children's aid society and to the council of each municipality in the area in which the society has jurisdiction or to the district child welfare budget board, as the case may be, within ten days after the Director makes his recommendation under subsection 2. 1970, c. 96, s. 3 (2).

Interpre-  
tation  
R.S.O. 1970,  
c. 132

**10.—**(1) In this section,

(a) "district" means a district as defined in *The District Welfare Administration Boards Act*;

(b) "municipality" means a municipality as defined in *The District Welfare Administration Boards Act*.

District  
Child  
Welfare  
Budget  
Board

(2) The councils of every municipality in a district in which a district welfare administration board has not been established shall, on or before the 31st day of January in each year, jointly appoint five persons to be a board known as the District Child Welfare Budget Board.

Approval  
of estimates

(3) The estimate of expenditures of a children's aid society in a district shall be approved by the District Child Welfare Budget Board in lieu of the approval by the municipal councils otherwise required by section 9. 1965, c. 14, s. 10.

Reference  
to child  
welfare  
review  
committee

**11.—**(1) Where the council of a municipality or a district child welfare budget board does not agree with the amount of the estimate submitted to it by a children's aid society or does not agree with the portion that is referable to the municipality it may, on or before the 25th day of April, instead of granting its approval to the estimate under section 9 or 10 and submitting it to the



Minister, request the Minister to refer the matter to a child welfare review committee.

(2) Where a children’s aid society, the council of a municipality or a district child welfare budget board does not agree with, Idem

- (a) a variation in the amount of the estimate as recommended by the Director for the approval of the Minister under subsection 2 of section 9; or
- (b) the amount of the estimate that the Minister intends to approve as varied under subsection 4 of section 9,

any one of them may, before the Minister’s approval is given under subsection 4 of section 9, request him to refer the matter to a child welfare review committee.

(3) Where the Minister receives a request under subsection 1 or 2, he shall forthwith, Composition of committee

- (a) appoint one member to the child welfare review committee, who shall be the chairman thereof; and
- (b) request by notice in writing that,
  - (i) one member be appointed to the committee by the Association of Children’s Aid Societies, and
  - (ii) one member be appointed to the committee by the council of the municipality or the district child welfare budget board, as the case may be,

within ten days of the giving of the notice.

(4) When the members have been appointed under clause b of subsection 3 they shall notify the Minister who shall forthwith give notice of the names of the members of the child welfare review committee to the parties concerned. Notice

(5) Where a children’s aid society has jurisdiction in more than one municipality and there is no district child welfare budget board, the member to be appointed under subclause ii of clause b of subsection 3 shall be appointed jointly by those municipalities. Joint appointment to committee

(6) Where a party who receives a notice to appoint a member to the committee under clause b of subsection 3 fails to appoint a member within the time prescribed, the Minister shall, in the place of the party who failed to make the appointment, forthwith appoint the member to the committee. Failure to appoint member

(7) The child welfare review committee shall be convened by the chairman thereof within ten days after all the members have been appointed and the committee shall determine its own procedures and shall require the Director, and give full opportunity to the society, the municipality or district child welfare budget board and any other municipality in the area in which the society has jurisdiction, to present evidence and make submissions. Procedure



- Evidence (8) The child welfare review committee may receive such written or oral evidence from any of the parties, the municipalities mentioned in subsection 7, the Director or any other person as it in its discretion considers proper whether admissible in a court of law or not.
- Findings of committee (9) The child welfare review committee shall review the evidence submitted to it and obtain any additional evidence or material it considers necessary and shall report its findings and make recommendations to the Minister within thirty days from the date that the committee first convenes and the findings and recommendations of the committee shall be made available to the parties concerned.
- Decision of Minister (10) The Minister may approve the amount of the estimate or vary the amount of the estimate and approve the estimate as so varied or determine the apportionment, as the case may be, and the decision of the Minister is final.
- Notice (11) Notice of the Minister's decision shall be given to the parties concerned within thirty days after he receives the report and recommendations of the committee. 1970, c. 96, s. 4.
- Payments by Ontario **12.**—(1) Subject to subsection 3, there shall be paid out of the moneys appropriated therefor by the Legislature to each children's aid society an amount equal to,
- (a) 60 per cent of the part of the approved estimate referable to operating costs, other than the operating costs referred to in clause b; and
  - (b) 100 per cent of the part of the approved estimate referable to operating costs for the care and maintenance of the children of unmarried mothers. 1965, c. 14, s. 12 (1); 1966, c. 17, s. 3 (1).
- Payments by municipality (2) Every municipality shall pay to the children's aid society having jurisdiction in the municipality an amount equal to 40 per cent of the portion that is referable to the municipality of the approved estimate of operating costs other than for the care and maintenance of the children of unmarried mothers. 1965, c. 14, s. 12 (2); 1966, c. 17, s. 3 (2).
- Societies in un-organized territory (3) There shall be paid out of moneys appropriated therefor by the Legislature to each children's aid society having jurisdiction in territory without municipal organization an amount equal to 100 per cent of the part of the approved estimate referable to operating costs in the territory without municipal organization, determined under subsection 3 of section 8 in the same manner as if the territory without municipal organization were a municipality. 1965, c. 14, s. 12 (3).

(4) Any amount payable to a children's aid society under this section in respect of an approved estimate of expenditures shall be paid at such times and in such manner as are prescribed by the regulations. 1966, c. 17, s. 3 (3). Manner of payment

(5) The Lieutenant Governor in Council may make special grants out of the moneys appropriated therefor by the Legislature to relieve, in whole or in part, any municipality that is unduly burdened in any year by reason of its liabilities under this Part. 1965, c. 14, s. 12 (5). Additional aid to municipalities

**13.** Where an agreement is entered into with the Crown in right of Canada providing for contribution by Canada to Ontario for the payment of the costs of the care and services provided by children's aid societies for Indians, Ontario shall pay to children's aid societies 100 per cent of the costs of such care and services, determined and paid in the manner prescribed by the regulations, and any Indians to whom the agreement applies shall not be computed for the purposes of subsection 3 of section 8, and the amount paid to a children's aid society under this section shall be deducted from the operating costs to which section 12 applies. 1966, c. 17, s. 4. Costs of care and services for Indians

**14.—(1)** Where the erection, purchase or other acquisition of a building by a municipality or by a children's aid society for the occupation in whole or in part by the society for use for a purpose other than to provide facilities and services to meet such special needs of children as are prescribed for the purposes of section 17 has been approved by the Minister, the Lieutenant Governor in Council may, out of moneys appropriated therefor by the Legislature, direct payment of an amount of 25 per cent of, Capital grants

- (a) where the whole building is occupied by the society, the value of the building and the land on which it is erected; or
- (b) where part of the building is occupied by the society, the proportion of the value of the building that the floor space occupied by the society bears to the total space of the building.

(2) Where the erection of a new building or an addition to an existing building by a society for the provision of facilities and services to meet such special needs of children as are prescribed for the purposes of section 17 has been approved by the Minister, the Lieutenant Governor in Council may, out of moneys appropriated therefor by the Legislature, direct payment to the society of an amount equal to the cost to the society of the new building or the addition, but not exceeding an amount based upon the bed capacity of the new building or the addition at the rate of \$5,000 per bed. Idem

Idem

(3) Where the acquisition of an existing building by a society for the provision of facilities and services to meet such special needs of children as are prescribed for the purposes of section 17 has been approved by the Minister, the Lieutenant Governor in Council may, out of moneys appropriated therefor by the Legislature, direct payment to the society of an amount equal to the cost to the society of the acquisition, but not exceeding an amount based on the bed capacity of the building at the rate of \$1,200 per bed.

Time and manner of payment

(4) An amount payable to a children's aid society or a municipality under this section shall be paid at such times and in such manner as are prescribed by the regulations. 1970, c. 96, s. 5.

Power to make levies

**15.**—(1) The council of any municipality shall pass by-laws for the levying of such amounts as are necessary for the purpose of meeting any liability imposed on the municipality under this Act and may pass by-laws for the purpose of affording to a children's aid society such other assistance as the council considers advisable.

When society a local board  
R.S.O. 1970,  
c. 324

(2) A children's aid society shall be deemed to be a local board of each municipality in which it has jurisdiction for the purposes of *The Ontario Municipal Employees Retirement System Act* and not for any other purpose. 1965, c. 14, s. 14.

Reciprocal agreements

**16.** The Crown, represented by the Minister, may enter into an agreement with any other jurisdiction providing for the payment by Ontario of the cost of the care and maintenance in the other jurisdiction of the children of unmarried mothers who are residents of Ontario, as determined under the agreement, and for the payment by the other jurisdiction of the cost of the care and maintenance in Ontario of the children of unmarried mothers who are residents of the other jurisdiction, as determined under the agreement. 1965, c. 14, s. 15.

Special homes and services

**17.** Two or more children's aid societies having concurrent or contiguous jurisdictions may enter into an agreement with the approval of the Minister establishing a joint committee for the purpose of providing facilities and services for the joint use of the societies to meet such special needs of children as are prescribed by the regulations, and sections 8 to 14 apply to the joint committee, for the purposes for which it was established, in the same manner as if the joint committee were a children's aid society. 1965, c. 14, s. 16.

Temporary board

**18.** Where, in the opinion of the Lieutenant Governor in Council, a children's aid society is not able to perform its duties, the Lieutenant Governor in Council may appoint a board of directors who shall be the board of directors of the society for such period as he considers advisable. 1965, c. 14, s. 17.

**19.** The Lieutenant Governor in Council may at any time, upon the recommendation of the Minister, dissolve a children's aid society on such date as the order provides, and upon the dissolution of a society its property vests in the Crown to be held and disposed of in such manner as the Lieutenant Governor in Council determines. 1965, c. 14, s. 18.

Dissolu-  
tion of  
societies

## PART II

### PROTECTION AND CARE OF NEGLECTED CHILDREN

**20.—(1)** In this Part,

Interpre-  
tation

- (a) “child” means a boy or girl actually or apparently under sixteen years of age;
- (b) “child in need of protection” means,
  - (i) a child who is an orphan and who is not being properly cared for, or any child who is brought, with the consent of the person in whose charge he is, before a judge to be dealt with under this Part,
  - (ii) a child who is deserted by the person in whose charge he is or where that person has died or is unable to care properly for him,
  - (iii) a child where the person in whose charge he is cannot, by reason of disease or infirmity or misfortune or incompetence or imprisonment or any combination thereof, care properly for him,
  - (iv) a child who is living in an unfit or improper place,
  - (v) a child found associating with an unfit or improper person,
  - (vi) a child found begging or receiving alms in a public place,
  - (vii) a child who, with the consent or connivance of the person in whose charge he is, commits any act that renders him liable to a penalty under any Act of the Parliament of Canada or of the Legislature, or under any municipal by-law,
  - (viii) a child whose parent is unable to control him,
  - (ix) a child who, without sufficient cause, habitually absents himself from his home or school,
  - (x) a child where the person in whose charge he is neglects or refuses to provide or obtain proper medical, surgical or other recognized remedial care or treatment necessary for his health or well-being, or refuses to permit such care or treatment to be supplied to the child when it is recommended by a legally qualified medical practitioner, or otherwise fails to protect the child adequately,



- (xi) a child whose emotional or mental development is endangered because of emotional rejection or deprivation of affection by the person in whose charge he is,
- (xii) a child whose life, health or morals may be endangered by the conduct of the person in whose charge he is;
- (c) "foster home" means a home, other than the home of his parent, in which a child is placed for care and supervision but not for the purposes of adoption;
- (d) "judge" means a provincial judge presiding in a provincial court (family division);
- (e) "parent" means a person who is under a legal duty to provide for a child, or a guardian or a person standing *in loco parentis* to a child other than a person appointed for the purpose under this Act;
- (f) "place of safety" means a receiving home or foster home or an institution for the care and protection of children, and includes a hospital;
- (g) "public place" means a place, building or conveyance to which the public has, or is permitted to have, access;
- (h) "receiving home" means an institution or home operated or supervised by a children's aid society for the temporary care of children. 1965, c. 14, s. 19 (1); 1970, c. 96, s. 6 (1-3).

By whom  
cases are  
to be  
heard

(2) Applications under this Part shall be heard by a judge presiding in a provincial court (family division) established for the county or district in which the child was taken into protective custody. 1970, c. 96, s. 6 (4).

Order  
affecting  
infant

(3) A judge may make an order under this Part notwithstanding the infancy of the child or his parent. 1965, c. 14, s. 19 (3).

Guardian  
*ad litem*

(4) For the purposes of an application under this Part, where the parent of a child is under the age of twenty-one years, the Official Guardian shall be the guardian *ad litem* of the parent with the duty of safeguarding his or her interests before the court unless the judge appoints any other person to be guardian *ad litem* for this purpose, and the judge may make such order as to the costs of the guardian *ad litem* as he considers just. 1965, c. 14, s. 19 (4); 1970, c. 96, s. 6 (5), *amended*.

Idem

(5) A married woman may be appointed as guardian *ad litem* for the purposes of subsection 4. 1970, c. 96, s. 6 (6).



**21.** A constable or other police officer, the Director, a local director or a person authorized by the Director or by a local director may take without warrant to a place of safety any child apparently in need of protection and detain the child there until the child can be brought before a judge, or he may apply to a judge for an order requiring the person in whose charge the child is to produce the child before a judge at the time and place named in the order. 1965, c. 14, s. 20.

How child  
in need of  
protection  
brought  
before  
judge

**22.**—(1) If it appears to a justice of the peace, on information laid before him on oath,

Warrant to  
search for  
child in  
need of  
protection

- (a) that there is reasonable cause to suspect that a child is in need of protection; or
- (b) that a child has been unlawfully removed from the care or custody of a children's aid society or is being unlawfully concealed or harboured,

the justice may issue a warrant authorizing any person named therein to search for the child and to take him to and detain him in a place of safety.

(2) A person authorized by the warrant may enter, if need be by force, any house, building or other place specified in the warrant and may remove the child therefrom.

Right  
of entry

(3) It is not necessary in an information or warrant under this section to describe the child by name. 1965, c. 14, s. 21.

Name not  
necessary

**23.** Where a child is in the care of an institution or home and no parent can be located, an officer of the institution or home shall notify the children's aid society and may, upon notice to the children's aid society, apply to a judge who may determine that the child is a child in need of protection under section 25. 1965, c. 14, s. 22.

Child in  
institution

**24.**—(1) A child detained in a place of safety under section 21 or clause *a* of subsection 1 of section 22 shall be returned to his parent or person in whose charge he was at the time of his apprehension or brought before a judge within five days of his detention. 1965, c. 14, s. 23 (1); 1970, c. 96, s. 7.

Detention  
limited

(2) Subsection 1 does not apply to a child while he is in the care of a children's aid society or detained by the society in a place of safety with the written consent of the person in whose charge he was immediately before being placed in the care of the society or taken to and detained in a place of safety. 1965, c. 14, s. 23 (2).

Voluntary  
care or  
detention

Hearing to  
be held

**25.**—(1) Where a child is brought before a judge as a child apparently in need of protection, the judge shall hold a hearing and determine whether or not the child is a child in need of protection, and, if he finds that the child is a child in need of protection, he shall also determine the child's name, age and religious faith and the location where the child was taken into protection.

Witnesses

(2) The judge has the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as may be requisite, and has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1965, c. 14, s. 24 (1, 2).

Who may  
be heard

(3) The judge may hear any person on behalf of the child, the local director of the children's aid society or any person authorized by the board of directors of the society on behalf of the society, the clerk of a municipality or any person authorized by the council of the municipality on behalf of the municipality, and a regional welfare administrator of the Department of Social and Family Services or any person authorized by the Minister on behalf of Ontario. 1965, c. 14, s. 24 (3); 1970, c. 96, s. 8 (1).

Notice

(4) Subject to subsection 5 the judge shall not proceed to hear or dispose of the matter until he is satisfied that the parent or other person having the actual custody of the child and the municipality in which the child was taken into protective care have had reasonable notice of the hearing or that every reasonable effort has been made in the opinion of the judge to cause them to be notified. 1965, c. 14, s. 24 (4); 1970, c. 96, s. 8 (2).

Idem

(5) Where the child is a child of an unmarried mother, the notice under subsection 4 shall be sent to the Director instead of to the municipality where the child was taken into protective care. 1970, c. 96, s. 8 (3).

Notice

(6) Where the child was taken into protective care in territory without municipal organization, the judge shall not proceed to hear or dispose of the matter until he is satisfied that the regional welfare administrator of the Department of Social and Family Services for the area in which the child was taken into protective care has had reasonable notice of the hearing or that every reasonable effort has been made in the opinion of the judge to cause such official to be notified. 1965, c. 14, s. 24 (5); 1970, c. 96, s. 8 (4).

Judge may  
dispense  
with notice

(7) Where in the opinion of the judge,

- (a) prompt service of any notice required under subsection 4, 5 or 6 cannot be effected; and
- (b) any delay might endanger the health or safety of the child,

the judge may dispense with the requirements of subsection 4, 5 or 6, as the case may be.

(8) Where the requirements of subsection 4, 5 or 6 have been dispensed with, the judge shall not make an order committing the child as a ward of the Crown or make an order committing the child for a period exceeding thirty days as a ward of a children's aid society, except after holding a further hearing to which the requirements of subsection 4, 5 or 6, as the case may be, apply. 1970, c. 96, s. 8 (5). Limitation where notice dispensed with

(9) The evidence of every witness capable of being sworn shall be given under oath and shall be taken down, Taking and transcribing evidence

(a) by a court stenographer where the court has a court stenographer; or

(b) by a stenographer appointed by the judge where the court does not have a court stenographer,

and the court when requested so to do shall provide a transcript of the evidence within twenty days. 1965, c. 14, s. 24 (6), *amended*.

(10) Where a hearing is adjourned, the judge shall make such order for the temporary care and custody of the child as he thinks advisable. 1965, c. 14, s. 24 (8). Care and custody during adjournment

**26.** Where the judge finds the child to be a child in need of protection, he shall make an order, Order where child in need of protection

(a) that the child be placed with or returned to his parent or other person subject to supervision by the children's aid society for a period of not less than six months and not more than twelve months as in the circumstances of the case he considers advisable; or

(b) that the child be made a ward of and committed to the care and custody of the children's aid society having jurisdiction in the area in which the child was taken into the protective care of the society for such period, not exceeding twelve months, as in the circumstances of the case he considers advisable; or

(c) that the child be made a ward of the Crown until the wardship is terminated under section 32 or 35 and that the child be committed to the care of the children's aid society having jurisdiction in the area in which the child was taken into the protective care of the society. 1965, c. 14, s. 25; 1970, c. 96, s. 9.

**27.—**(1) Where a child is found to be a child in need of protection and is committed to the care of a children's aid society, the judge may order the parent to pay to the children's aid society such sum as is prescribed by the regulations, or any part thereof, for each day the child is in the care of the society. Payments by parent

Varying  
payments  
by parent

(2) The judge may vary or rescind the order under subsection 1 where the circumstances of the parent have changed.

Agreement  
to collect  
payments

(3) The council of a municipality may enter into an agreement with the board of directors of a children's aid society providing for the collection by the municipality on behalf of the society of the payments of the amounts required to be paid by parents under subsection 1.

Enforce-  
ment of  
order  
R.S.O. 1970,  
c. 128

(4) An order made against a parent under subsection 1 may be enforced in the same manner as an order made under *The Deserted Wives' and Children's Maintenance Act*.

Re-opening  
of case  
adjourned  
*sine die*

(5) Where the judge has made an order under clause *a* of section 26, the society may at any time bring the case again before a judge for further consideration and action under this section, and the judge may terminate the order and make a further order under section 26 or take such other action under that section as he considers necessary in the interest of the welfare of the child. 1965, c. 14, s. 26.

Presence of  
child at  
hearing

**28.**—(1) Where he considers it to be in the best interests of the child, the judge may order that the presence of the child at the hearing under this Part be dispensed with.

Proceedings  
at any time  
or on a  
holiday  
R.S.O. 1970,  
c. 228

(2) Notwithstanding section 129 of *The Judicature Act* and with the leave of the judge hearing an application under this Part, any step may be taken in the application, the hearing may be held and the order may be made and performed at any time of any day, including a holiday. 1965, c. 14, s. 27.

Access to  
child

**29.** A judge may, in any case arising under this Part, make such order as he considers proper regarding the right of access to the child by any person or by either parent of the child, having regard to the welfare of the child, the conduct of the person or parent and the wishes of the parents, and may at any time alter, vary or discharge any order so made. 1965, c. 14, s. 28.

Statement  
of facts

**30.** Every order made under this Part shall contain a statement of the facts upon which the decision of the judge is based. 1965, c. 14, s. 29.

Re-applica-  
tion before  
expiration  
of wardship

**31.** Where a child has been committed as a ward of a children's aid society, the society may at any time and shall, before the expiration of the period of wardship other than under section 35, apply to the judge for further consideration, and the judge shall thereupon further inquire and determine whether the circumstances justify a further order under section 26, and may make such further order or terminate the existing order, but in no case



shall an order be made that results in the child being a ward of the society for a continuous period of more than twenty-four months. 1965, c. 14, s. 30; 1970, c. 96, s. 10.

**32.**—(1) Subject to subsection 2, where a child has been committed as a ward of the Crown, the children's aid society having the care of the child or a parent of the child may apply to a judge for an order terminating the Crown wardship, and, if the judge is satisfied that the termination is in the best interests of the child, he shall order that the Crown wardship be terminated. 1965, c. 14, s. 31 (1); 1968-69, c. 9, s. 1 (1).

Application to terminate Crown wardship

(2) Where a child has been committed as a ward of the Crown, the order under clause *c* of section 26 shall, subject to section 35, remain in effect and the Crown wardship shall not be terminated where the child has been placed in the home of a person who has given written notice of his intention to adopt the child and the child is residing in the home, until an adoption order is made under Part IV.

Crown wardship to remain in effect

(3) The notice of intention to adopt referred to in subsection 2, shall not be given until any appeal under section 36 from the decision granting the order of Crown wardship or from a decision granting or refusing an order under subsection 1 has been finally disposed of, or until the time limited under section 36 for making such appeal has expired.

When notice may be given

(4) Notwithstanding anything in this section, the judge may have regard to the wishes of the child in determining what order shall be made under subsection 1. 1968-69, c. 9, s. 1 (2).

Judge may have regard to wishes of child

**33.**—(1) The Crown has and shall assume all the rights and responsibilities of a legal guardian of its wards for the purpose of their care, custody and control, and the powers, duties and obligations of the Crown in respect of the wards of the Crown, other than those assigned to the Director by this Act, may be exercised and discharged by the children's aid society having the care of the ward.

Duties re Crown wards

(2) The Director may direct that a Crown ward be moved to any other children's aid society or institution designated by the Director. 1965, c. 14, s. 32 (1, 2).

Control of Director

**34.** Each children's aid society has and shall assume all the rights and responsibilities of a legal guardian of the wards of the society for the purpose of their care, custody and control. 1965, c. 14, s. 33 (1).

Society to be legal guardian

**35.** Every wardship terminates upon the marriage of the ward or when the ward attains the age of eighteen years, but, upon the application of a children's aid society with the approval of the

Termination of wardship



Director, a judge may order that the wardship of a Crown ward continue until the ward attains the age of twenty-one years where the ward is dependent for educational purposes or because of mental or physical incapacity. 1965, c. 14, s. 34; 1970, c. 96, s. 12.

Appeal to  
county  
court judge

**36.**—(1) A decision granting or refusing an order under this Part may be appealed to the judge of the county or district court of the county or district in which the application was made, but, where the judge who made the decision is also the county or district court judge, the appeal shall be heard and disposed of by any other county or district court judge in the same county or district court district. 1965, c. 14, s. 36 (1).

Notice of  
appeal

(2) The appeal shall be made by filing a notice of appeal with the clerk of the county or district court and serving a copy thereof on the other parties within thirty days after the making of the decision.

Date of  
hearing

(3) The appellant or person served with notice of appeal may, upon at least two days notice to each of the other parties, apply to the judge to fix a date for the hearing of the appeal.

Decision

(4) The appeal shall be a hearing *de novo* and the judge may rescind, alter or confirm the decision being appealed or make an order or decision that ought to have been made. 1968-69, c. 9, s. 3.

Appeal  
to Court  
of Appeal

(5) A decision upon an appeal under subsection 1 is subject to an appeal to the Court of Appeal.

Appeal by  
next friend

(6) An appeal on behalf of a child may be made at the instance of a next friend. 1965, c. 14, s. 36 (2, 3).

Pre-  
sumption as  
to religious  
faith

**37.**—(1) For the purposes of this section, a child shall be deemed to have the same religious faith as his father unless it is shown that an agreement has been entered into in writing, signed by his parents, that he be brought up in the same religious faith as his mother.

Child of  
unmarried  
mother

(2) For the purposes of this section, the child of an unmarried mother shall be deemed to have the religious faith of his mother.

Where  
established  
faith not  
that of  
parent

(3) Where a child is being raised in a religious faith other than his religious faith as determined under subsection 1 or 2 or where his religious faith cannot be readily determined under subsection 1 or 2, the judge may determine the child to have such religious faith, if any, for the purposes of this section, as he considers proper in the circumstances.

Religious  
faith of  
child

(4) A Protestant child shall not be committed under this Part to the care of a Roman Catholic children's aid society or

institution and a Roman Catholic child shall not be committed under this Part to a Protestant children's aid society or institution, and a Protestant child shall not be placed in a foster home with a Roman Catholic family and a Roman Catholic child shall not be placed in a foster home with a Protestant family, and, where a child committed under this Part is other than Protestant or Roman Catholic, he shall be placed where practicable with a family of his own religious faith, if any.

(5) Subsection 4 does not apply to the commitment of a child to the care of a children's aid society in a municipality in which there is only one children's aid society.

Where only one society

(6) Where a children's aid society,

Application to waive subs. 4

- (a) is unable to place a child in a suitable foster home within a reasonable time because of the operation of subsections 1 to 4; and
- (b) would be able to place the child in a suitable foster home but for the operation of subsections 1 to 4,

the society or the Director may apply to a judge who may order that subsection 4 does not apply to the child in respect of the placement.

(7) Notwithstanding anything in this section, the judge may have regard to the wishes of the child in determining what order ought to be made as to his religious faith. 1965, c. 14, s. 37.

Child's wishes to be consulted

**38.**—(1) A ward of the Crown or of a children's aid society may be placed by the society for any period of time in a foster home or other suitable place according to the needs of the child, and every ward so placed shall receive an education in accordance with the laws of Ontario and in keeping with his intellectual capacity, and provision for his occupational training and for his total development shall be such as a good parent would make for his own child.

Society may place ward

(2) A ward of the Crown or of a children's aid society who has been so placed may at any time be removed by the society when, in the opinion of the Director or the local director, the welfare of the ward so requires.

Removal of ward of society

(3) Where a ward of the Crown is placed in a foster home and, in the opinion of the local director with the approval of the Director, it is in the best interests of the ward to place him in adoption, the foster parents shall not be denied the opportunity of making application to adopt the ward if they so desire. 1965, c. 14, s. 38.

Adoption of ward

Interference  
with wards,  
etc.

**39.**—(1) No person shall,

- (a) induce or attempt to induce a person under the age of eighteen years, who is lawfully in the care of an organization that provides care for children, to leave the premises in which he has been lawfully placed; or
- (b) detain or harbour a person under the age of eighteen years, who is lawfully in the care and custody of an organization that provides care for children, after demand made by a person authorized to require him to be delivered up; or
- (c) subject to section 29, visit, write to, telephone to, remove or attempt to remove from a foster home or place of safety or other place, or otherwise interfere with,
  - (i) a ward of the Crown or of a children's aid society,
  - (ii) the foster parents of a ward, or
  - (iii) a child lawfully detained under section 21 or subsection 1 of section 22,

without the consent in writing of the children's aid society under whose supervision the child is. 1965, c. 14, s. 39 (1); 1970, c. 96, s. 13.

Offence

(2) Every person who contravenes any provision of subsection 1 is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$500 or to imprisonment for a period of not more than one year, or to both. 1965, c. 14, s. 39 (2).

Desertion  
of or failure  
to protect  
child

**40.**—(1) Any person having the care, custody, control or charge of a child who abandons, deserts or fails to support the child or inflicts cruelty or ill-treatment upon the child not constituting an assault or otherwise fails to protect the child is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$500 or to imprisonment for a term of not more than one year, or to both. 1965, c. 14, s. 40 (1); 1970, c. 96, s. 14.

Leaving  
child  
unattended

(2) Any person having the care, custody, control or charge of a child under the age of ten years who leaves the child unattended for an unreasonable length of time without making reasonable provision for the supervision and safety of the child is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$100 and, for any subsequent offence, to a fine of not more than \$200 or imprisonment for a term of not more than one year.

Further  
proceedings  
as to child

(3) The judge may in connection with any case arising under subsection 1 or 2 hold a hearing in respect of any child concerned and may proceed as though the child had been brought before him as a child apparently in need of protection. 1965, c. 14, s. 40 (2, 3).

**41.**—(1) Every person having information of the abandonment, desertion, physical ill-treatment or need for protection of a child shall report the information to a children's aid society or Crown attorney. Reporting  
ill-treatment  
of child

(2) Subsection 1 applies notwithstanding that the information is confidential or privileged, and no action shall be instituted against the informant unless the giving of the information is done maliciously or without reasonable and probable cause. 1965, c. 14, s. 41. Privilege  
abolished

**42.**—(1) Every person who, Causing  
child to  
beg,  
perform,  
etc.

- (a) causes or procures a child to be in any public place for the purpose of begging or receiving alms or of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise; or
- (b) causes or procures a child to be in any public place for the purpose of singing, playing or performing for profit or offering anything for sale between 9 o'clock in the afternoon of any day and 6 o'clock in the morning of the following day; or
- (c) subject to subsection 2, causes or procures a child to be at any time for the purpose of singing, playing or performing for profit or offering anything for sale in any circus, theatre or other place of public amusement to which the public is admitted by payment,

is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$100 or to imprisonment for a term of not more than six months, or to both.

(2) In the case of an entertainment or series of entertainments to take place in premises used for public entertainment or in a circus, theatre or other place of public amusement, where it is shown that provision has been made to ensure the health and proper treatment of a child proposed to be employed thereat, the head of the council of the municipality may, with the approval of the children's aid society, grant a licence for such time and during such hours of the day and subject to such restrictions and conditions as he thinks fit for any child who in his opinion is a fit and proper person to take part in such entertainment or series of entertainments, and the licence may at any time be varied, added to or revoked by him with the approval of the children's aid society. 1965, c. 14, s. 41 (1, 2). Licence for  
child to  
perform in  
public

(3) The municipal council shall assign to a person the duty of seeing that the restrictions and conditions of any licence granted under subsection 2 are duly complied with, and such person may enter, inspect and examine any place at which the employment of Officer to  
supervise  
licensed  
child



a child is for the time being licensed, and that duty shall be discharged by the chief of police of the municipality until some other person is appointed. 1965, c. 14, s. 42 (3), *amended*.

Street  
trades, girls  
under 16  
and boys  
under 12

**43.**—(1) No girl under sixteen years of age and no boy under twelve years of age shall engage in or be licensed or permitted to engage in any street trade or occupation.

boys  
12 to 16

(2) No boy twelve or more years of age and under sixteen years of age shall engage in any street trade or occupation between the hours of 9 o'clock in the afternoon and 6 o'clock in the morning of the following day.

Boy or girl  
under 16  
loitering  
in public  
place at  
night

(3) No boy or girl under sixteen years of age shall loiter in any public place between the hours of 10 o'clock in the afternoon and 6 o'clock in the morning of the following day or be in any place of public resort or entertainment during such hours unless accompanied by his or her parent or an adult appointed by the parent to accompany the boy or girl.

Warning

(4) A boy or girl found contravening any provision of this section may be warned by a constable, and, if the warning is not regarded or if, after the warning, the boy or girl is again found contravening any provision of this section, the boy or girl may be taken by the constable to the home of the boy or girl or to a place of safety and dealt with as a child apparently in need of protection.

Offence

(5) A parent who permits his boy or girl to contravene any provision of this section is guilty of an offence and on summary conviction before a judge is liable to a fine of not more than \$25 and, for any subsequent offence, to a fine of not more than \$100. 1965, c. 14, s. 43.

Pre-  
sumption  
as to age  
of child

**44.** Where a person is charged with an offence under this Part in respect of a child who is alleged to be under a specified age and the child appears to the judge to be under that age, the child shall for the purposes of this Part be deemed to be under that age unless the contrary is proved. 1965, c. 14, s. 44.

Separate  
place of  
detention

**45.**—(1) A child who is charged with an offence or brought before a judge under this Part shall not, before his trial or hearing, be confined in a place used for persons charged with crime. 1965, c. 14, s. 45 (1).

Idem

(2) The council of every city, town, village and township shall make provision for the separate detention of every such child prior to his trial or hearing by arrangement with a person or society willing to undertake the responsibility of such detention on such terms as are agreed upon, or by providing suitable premises entirely distinct and separated from the ordinary lock-up or correctional institution. 1965, c. 14, s. 45 (2), *amended*.



(3) A child lawfully in custody shall not be placed or allowed to remain in the company of adult prisoners. Idem

(4) Where it appears to the judge that the interest of a child charged with an offence under section 43, will be best served thereby, the child may be dealt with by the judge in the same manner as though the child had been brought before him as a child apparently in need of protection. 1965, c. 14, s. 45 (3, 4). Alternative proceedings

**46.**—(1) Where a child is brought before a judge under this Part, the hearing shall be held in premises maintained specifically for the purpose or in the private office of the judge or in other suitable premises, but the hearing shall not be held in premises ordinarily used for hearings by a provincial court (criminal division). 1965, c. 14, s. 46 (1), *amended*. Place of hearing

(2) Where a child or parent is brought before a judge for trial or hearing under this Part, the judge shall exclude from the room all persons, other than the counsel and witnesses in the case, officers of the law or of a children's aid society and friends and relatives of the child or parent, and he may exclude any or all the friends and relatives as he thinks proper. Exclusion of public, etc.

(3) Where a hearing is held under this Part, whether upon an application or by way of a trial or appeal, no person shall publish the name of the child or his parent concerned in the hearing by newspaper or other publication or by broadcast or any other means, except with the leave of the person holding the hearing. 1965, c. 14, s. 46 (2, 3). Information not to be published

**47.**—(1) Where, by an order or orders made by a court of competent jurisdiction in any other province or territory of Canada or in any other state or country that is specified in the regulations, full and lawful parental rights and responsibilities in respect of a child have been legally vested in any person, organization, province, state, country or legal representative thereof, the order or orders so made shall for all purposes in Ontario have the same force and effect as if made under this Act. Effect of order of court in other jurisdiction

(2) Where, as a requirement of the making of an order or orders of a court referred to in subsection 1, any statement, consent, declaration or similar document in writing is made by the person, organization, province, state, country or legal representative thereof in whom the full and lawful parental rights and responsibilities have been legally vested by such order or orders, such statement, consent, declaration or similar document in writing shall for all purposes in Ontario have the same force and effect as if made under this Act. 1965, c. 14, s. 47. Idem

## PART III

## PROTECTION OF CHILDREN BORN OUT OF WEDLOCK

Interpre-  
tation

**48.**—(1) In this Part, “judge” means a provincial judge presiding in a provincial court (family division). 1970, c. 96, s. 15, *amended*.

By whom  
cases to  
be heard

(2) Proceedings under this Part shall be heard by a judge. 1965, c. 14, s. 48 (2).

Where  
society not  
to intervene

**49.** Nothing in this Part requires a children’s aid society to intervene in the care and maintenance of a child born out of wedlock where the child has been adopted in accordance with the laws of Ontario or where the child is being cared for voluntarily by a person whom the society considers suitable to have charge of the child. 1965, c. 14, s. 49.

Agreement  
for main-  
tenance of  
the child

**50.**—(1) Where a child is born out of wedlock or where it appears that a child is likely to be born out of wedlock and no agreement between the mother and the putative father with respect to the care and maintenance of the child is in force, a society and the mother of the child may enter into an agreement with the putative father of the child for the payment of money by the putative father in respect of the expenses and maintenance mentioned in subsection 1 of section 59, and, if the financial circumstances of the putative father change at any time, the terms of the agreement may be varied by the parties accordingly. 1965, c. 14, s. 50 (1); 1970, c. 96, s. 16 (1).

Idem

(2) Where a putative father enters into an agreement under subsection 1 in which he agrees to pay a fixed amount in respect of the maintenance mentioned in subsection 1 of section 59, the agreement shall provide for the fixed amount to be paid within twelve months from the date on which the agreement is made.

Payment  
of money  
under  
agreement

(3) The money payable under an agreement made under subsection 1 shall be paid in the first instance to the society that is party to the agreement.

Idem

(4) The money so paid to a society,

- (a) if it is paid in respect of the expenses mentioned in subsection 1 of section 59, shall be apportioned, if necessary, and paid over by the society in accordance with the circumstances of the case to the person or persons who incurred the expenses;
- (b) if it is paid in periodic payments in respect of the maintenance mentioned in subsection 1 of section 59, shall be paid over by the society to the person having the care and custody of the child; or

- (c) if it is a fixed amount paid in respect of the maintenance mentioned in subsection 1 of section 59, shall be dealt with by the society as provided in section 66. 1965, c. 14, s. 50 (2-4).

(5) Where the putative father is in default in payment of money under an agreement made under subsection 1, the mother or the society, or the mother and the society together, may make an application to a judge for an order to enforce the agreement, and, where the putative father continues in default for a period of sixty days and an application for an order to enforce the agreement has not been made, the society, where it is incurring costs on behalf of the mother or the child, shall within the next following period of thirty days make an application to a judge for an order to enforce the agreement. 1965, c. 14, s. 50 (5); 1970, c. 96, s. 16 (2).

Default under agreement

(6) Upon application by the mother, the putative father or the society or by the mother and the society together, a judge may at any time, in respect of an agreement made under subsection 1, rescind the agreement or,

Variation or rescission of agreement

- (a) vary any amount of money payable thereunder; or
- (b) vary any other term of the agreement,

and any agreement so varied may be enforced in the same manner as the original agreement. 1970, c. 96, s. 16 (3).

**51.** Where no agreement has been entered into under section 50 or where the putative father is in default under an agreement made under section 50, an application may be made to a judge at any time for an affiliation order,

Application for affiliation order

- (a) by the mother of a child born or likely to be born out of wedlock;
- (b) by the next friend or guardian of a child born out of wedlock;
- (c) by a society; or
- (d) with the approval of a society, by any person or municipality having an apparently legitimate claim for reimbursement of moneys expended or payment of moneys charged in consequence of the mother's pregnancy, the birth of the child, the death of the child, the maintenance of the child or the maintenance of the mother. 1970, c. 96, s. 17.

**52.—**(1) For the purposes of an application under this Part, where the putative father or the mother is under the age of twenty-one years, the Official Guardian shall be the guardian *ad litem* of the putative father or the mother, as the case may be, with

Infancy of mother or putative father

the duty of safeguarding his or her interests before the court unless the judge appoints any other person to be the guardian *ad litem* for this purpose, and the judge may make such order as to the costs of the guardian *ad litem* as he considers just. 1965, c. 14, s. 52 (1); 1970, c. 96, s. 18 (1), *amended*.

Married woman

(2) A married woman may be appointed as guardian *ad litem* for the purposes of subsection 1. 1970, c. 96, s. 18 (2).

Death of mother

(3) A society may institute or continue proceedings under this Part even though the mother has died. 1965, c. 14, s. 52 (2).

When application to be made

**53.** No affiliation order shall be made under section 59 unless the application therefor is made in the lifetime of the putative father, and,

- (a) within two years from the birth of the child;
- (b) within one year after the doing of any act on the part of the putative father that affords evidence of acknowledgement of paternity; or
- (c) within one year after the return to Ontario of the putative father where he was absent from Ontario at the expiration of the period of two years from the birth of the child. 1965, c. 14, s. 53.

Powers of judge

**54.** In proceedings under this Part, the judge has the power of summoning any person and requiring him to give evidence on oath and to produce all documents and things that may be relevant, and has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1965, c. 14, s. 54.

Proceedings to be private

**55.** All proceedings under this Part shall be heard by the judge in private. 1965, c. 14, s. 55.

Corroborative evidence required

**56.** No affiliation order shall be made under section 59 upon the evidence of the mother of the child unless her evidence is corroborated by some other material evidence. 1965, c. 14, s. 56.

Appointment for hearing; notice

**57.—(1)** Where an application for an affiliation order or an order to enforce an agreement is made to a judge, the judge shall appoint in writing a time and place at which the application will be heard, and notice in writing thereof shall be served personally or in such other manner as the judge directs upon the putative father at least seven days before the day so appointed.

Arrest of putative father

(2) Where the judge is satisfied that there is good and probable cause for believing that the putative father of the child is in fact the father of the child and that the putative father is about to quit the territorial jurisdiction of his court with the intention of avoiding service of the notice in writing referred to in subsection 1



or of evading his obligations in respect of the child and the child's mother, whether before or after an affiliation order has been made, the judge may issue a warrant for the arrest of the putative father and upon his arrest may require him to give security for such sum and in such manner and upon such condition as the judge may direct, and, if the security is not given, the judge may order the putative father to be imprisoned for a period of not more than three months unless the security is sooner given or the putative father has sooner complied with the condition so imposed. 1965, c. 14, s. 57.

**58.** Where the putative father who has been served with notice of the application for an affiliation order or an order to enforce an agreement fails to appear at the hearing or to show sufficient reason for not appearing, the judge in the absence of the putative father and upon sufficient evidence being adduced before him may make an order against the putative father under section 59 or he may make such other order as he considers just. 1965, c. 14, s. 58.

**59.—(1)** Where the putative father appears in pursuance of the notice of the application served upon him under section 57, the judge upon sufficient evidence being adduced before him may make an order declaring the putative father to be in fact the father of the child and requiring him, in accordance with the circumstances of the case,

- (a) to pay the reasonable expenses for the maintenance and care, medical and otherwise, of the mother of the child during her pregnancy and at the birth of the child, her burial expenses if she dies as a consequence of her pregnancy or of the birth of the child, and the burial expenses of the child if the child dies; and
- (b) to make periodic payments or to pay a fixed amount for the maintenance of the child until the child attains the age of sixteen years or until the child is adopted under Part IV or until the child dies.

(2) A judge may in an affiliation order made under this section order the mother of the child to make periodic payments or to pay a fixed amount to assist in the maintenance of the child until the child attains the age of sixteen years or until the child is adopted under Part IV or until the child dies.

(3) In estimating the amount of the periodic payments or the fixed amount for maintenance to be paid by the father under subsection 1, the judge shall fix such payments or amount as will enable the child to maintain a reasonable standard of life, having regard to what the child would have enjoyed had the child been born in lawful wedlock, but the judge shall take into consideration the ability of the father to provide such payments or amount and the ability of the mother to assist in the maintenance of the child.



When fixed  
sum to be  
paid

(4) Any fixed amount ordered to be paid under this section shall be paid within twelve months from the date of the affiliation order.

Death  
of child

(5) Any balance of a fixed amount paid under this section shall, if the child dies before attaining the age of sixteen years, revert to the father or mother, as the case may be, unless otherwise ordered by a judge. 1965, c. 14, s. 59.

Payment  
of money  
under  
affiliation  
order

**60.**—(1) Any money payable under an affiliation order made under section 59 shall be paid in the first instance to the judge making the order or to an official of the court designated by the judge.

Idem

(2) Where the child of an unmarried mother is in the care of a children's aid society and the father is in default of payment under an affiliation order, the children's aid society shall make every effort to ensure the collection of the arrears under subsection 1 and may take any legal remedies available to the mother.

Idem

(3) Any money so paid for expenses under subsection 1 of section 59 shall be apportioned, if necessary, and paid over in accordance with the circumstances of the case to the person or persons who incurred the expenses.

Idem

(4) Any money so paid as periodic payments for maintenance under subsection 1 or 2 of section 59 shall be paid over to the person having the care of the child on whose behalf the payments were made.

Idem

(5) Any money so paid as a fixed amount for maintenance under subsection 1 or 2 of section 59 shall be dealt with as provided in section 66 by the judge or the official of the court designated by the judge. 1965, c. 14, s. 60.

Order to  
report to  
officer

**61.**—(1) Where the child for whose benefit the order for maintenance is made is a public charge or the judge is of the opinion that, if there is default in the order, the child is likely to be a public charge, the judge may, in the order, order any person required to make payments thereunder to report to a probation officer at such times and places as the judge considers necessary for the purpose of ensuring that such person is complying with the order.

Officer  
to be  
designated

(2) Where a judge orders a person to report to a probation officer under this section, he shall designate the officer and may by further order change the designation.

Failure  
to report

(3) Every person who without reasonable excuse fails to report to a probation officer when ordered so to do under this section is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than three months.

(4) An order made under this section certified by the judge or a certificate of a judge as to the making of an order by him is receivable in evidence as proof of the making of such order in any prosecution under this section without proof of the office or signature of the person certifying. 1965, c. 14, s. 61.

Proof of order

**62.** Where an affiliation order has been made or an application for an affiliation order has been dismissed, a judge may, on the discovery of new evidence or of fraud, grant leave to reopen and may reopen and reconsider his decision. 1965, c. 14, s. 62.

Reopening of application

**63.** Where an order for the payment of money has been made in an affiliation order under this Part, a judge may at any time vary or rescind the order for the payment of money as he sees fit, and any order so varied may be enforced in the same manner as the original order. 1965, c. 14, s. 63.

Variation of orders

**64.**—(1) A decision granting or refusing an order under this Part may be appealed to the judge of the county or district court of the county or district in which the application was made, but, where the judge who made the decision is also the county or district court judge, the appeal shall be heard and disposed of by any other county or district court judge in the same county or district court district. 1965, c. 14, s. 64 (1).

Appeal to county court judge

(2) The appeal shall be made by filing a notice of appeal with the clerk of the county or district court and serving a copy thereof on the other parties within thirty days after the making of the decision.

Notice of appeal

(3) The appellant or person served with notice of appeal may, upon at least two days notice to each of the other parties, apply to the judge to fix a date for the hearing of the appeal.

Date of hearing

(4) The appeal shall be a hearing *de novo* and the judge may rescind, alter or confirm the decision being appealed or make any order or decision that ought to have been made. 1970, c. 96, s. 19.

Decision

(5) A decision upon an appeal under subsection 1 is subject to an appeal to the Court of Appeal. 1965, c. 14, s. 64 (2).

Appeal to Court of Appeal

**65.**—(1) A judge may make an order under this Part notwithstanding the infancy of either parent.

Order where parent an infant

(2) Any order made under this Part may be enforced in the same manner and by the like proceedings as,

Enforcement of orders

- (a) an order made under *The Deserted Wives' and Children's Maintenance Act*;
- (b) an order made or fine imposed under *The Summary Convictions Act*; or
- R.S.O. 1970, c. 128
- R.S.O. 1970, c. 450

- (c) a judgment of the small claims court, where the order has been filed with the clerk of a small claims court, whereupon proceedings by way of execution, garnishment proceedings or judgment summons, *inter alia*, may be used to enforce the order. 1965, c. 14, s. 65, amended.

Money not  
immediately  
required

**66.** The portion of a fixed amount paid under an agreement made under section 50 or under an affiliation order made under section 59 that is not required immediately by the society that is a party to the agreement or by the judge who made the order, as the case may be, to pay the expenses or the maintenance mentioned in subsection 1 of section 59 shall be paid over to the Public Trustee by the judge or the society, and the money so paid over shall be invested by the Public Trustee but is subject to withdrawal of any amounts from time to time upon the written requisition of a judge or of a society. 1965, c. 14, s. 66.

Deceased  
father's  
estate  
bound

**67.—(1)** An agreement made under section 50 or an order for payment of money in an affiliation order made under subsection 1 of section 59 binds the estate of the putative father or the father after his death, and any moneys payable thereunder are a debt due from and chargeable upon his estate and are recoverable at the suit of the society in the case of an agreement or by the person having the care and custody of the child in the case of an order, but every such agreement or order is, as to any payment falling due before or after his death, subject to review under section 63.

Proceedings  
after death  
of father

(2) No action or other proceeding shall be taken on any such agreement or order after the death of the putative father or the father without the leave of a judge of the court in which the action or other proceeding is to be brought, and the judge before granting leave shall direct notice to be given to the widow and legitimate children of the putative father or the father and to all other persons interested in his estate.

Widow, etc.,  
not to be  
prejudiced

(3) Where in any such action or other proceeding it appears to the judge that the terms of the agreement or order cannot be carried out without depriving the widow or legitimate children of the putative father or the father of necessary maintenance, the judge may, having regard to all the circumstances, vary the agreement or order to such an extent and in such manner as to make equitable provision for the widow, the legitimate children and the child or children born out of wedlock. 1965, c. 14, s. 67.

Payment  
of costs

**68.** A judge has power to direct payment of the costs of any proceeding taken before him under this Part. 1965, c. 14, s. 68.

PART IV

ADOPTION

**69.** In this Part, “child” means a person whether under twenty-one years of age or twenty-one or more years of age. 1965, c. 14, s. 69.

Interpretation

**70.**—(1) The Supreme Court or the county or district court of the county or district in which either the applicant or the child sought to be adopted resides at the time of the application for an adoption order has jurisdiction to make the order.

Jurisdiction of courts

(2) An application for an adoption order shall be heard and determined in chambers.

Application to be heard in chambers

(3) Where an application for an adoption order is not heard by the court within the twelve months next following the signing of the application by the applicant, it shall not be proceeded with, but another application may be made in its stead. 1965, c. 14, s. 70 (1-3).

Stale applications

(4) For the purpose of an application for an order for the adoption of a child under twenty-one years of age, other than a child who has been placed for adoption by a children’s aid society, the court shall appoint a guardian *ad litem* of the child and a guardian *ad litem* of any parent of the child who is under twenty-one years of age and who is a party to the proceedings.

Guardian *ad litem*

(5) A married woman may be appointed as guardian *ad litem* for the purposes of subsection 1. 1970, c. 96, s. 20.

Idem

**71.** The court may make an order for the adoption of any child resident in Ontario upon application therefor being made in the prescribed manner by a person resident in Ontario, notwithstanding the infancy of the child or its parent. 1965, c. 14, s. 71.

Where order may be made

**72.**—(1) The court shall not make an adoption order,

(a) where the applicant is under twenty-one years of age or, in the case of a joint application by a husband and wife, where the husband is under twenty-one years of age;

(b) where the applicant is a male and the child sought to be adopted is a female under twenty-one years of age; or

(c) where the applicant is unmarried, a widow, a widower or a divorced person,

Where order not to be made

unless the court is satisfied that there are special circumstances that justify, as an exceptional measure, the making of the order.

(2) Except in the case of a joint application by a husband and wife, an order shall not be made for the adoption of a child by more than one person.

Adoption by more than one person



Consent of  
adopting  
spouse

(3) An adoption order shall not be made upon the application of a husband or wife without the written consent of the spouse.

Child 21  
or over  
or under  
21 and  
married

(4) An order for the adoption of a child who is twenty-one or more years of age or who is under twenty-one years of age and has been married shall not be made unless the court is satisfied that the child has in fact been in the custody of, brought up, maintained and educated by the applicant as his own child during infancy or until marriage, as the case may be, under a *de facto* adoption. 1965, c. 14, s. 72.

Consent,  
where child  
born in  
wedlock

**73.**—(1) An order for the adoption of a child under twenty-one years of age who was born in wedlock and who has not been married shall be made only with the written consent, given after the child was seven days old, of every person who is a parent or guardian or who has lawful custody or control or who is liable to contribute to the support of the child, but any person who has given his consent may cancel it within twenty-one days after it was given by a document in writing to that effect.

Idem,  
where child  
born out  
of wedlock

(2) An order for the adoption of a child under twenty-one years of age who was born out of wedlock and who has not been married shall be made only with the written consent of the mother, given after the child was seven days old, and, where the child resides with and is maintained by the father, with the written consent of the father, but the mother or father may cancel such consent within twenty-one days after it was given by a document in writing to that effect.

Idem,  
Crown ward

(3) An order for the adoption of a child who is a Crown ward shall be made only with the written consent of the Director, in which case no other consent is required. 1965, c. 14, s. 73 (1-3).

Idem,  
child 21  
or over  
or under  
21 and  
married

(4) An order for the adoption of a child shall be made only with the written consent of the child, and, where the child is married, with the written consent of the spouse except that the court may dispense with the consent of the child if the court is satisfied that, having regard to all the circumstances of the case, the consent would not be appropriate. 1965, c. 14, s. 73 (4); 1970, c. 96, s. 21 (1), *amended*.

Where  
consent not  
given

(5) Where a consent required by this section has not been given, the court upon application by the applicant for the adoption may dispense with the requirement if, having regard to all the circumstances of the case, the court is satisfied that it is in the best interests of the child that the requirement be dispensed with. 1965, c. 14, s. 73 (5); 1970, c. 96, s. 21 (2).

Notice

(6) The court shall not dispense with a consent required under this section, except a consent required under subsection 4, until the court is satisfied that the person from whom the consent is required has had notice of the application for adoption and notice



of the application to dispense with the consent, or that every reasonable effort has been made, in the opinion of the court, to cause such person to be notified. 1970, c. 96, s. 21 (3), *part*.

(7) Where a consent required by this section has been given, it may be withdrawn by the person giving it only if, having regard to all the circumstances of the case, the court is satisfied that it is in the best interests of the child that the consent be withdrawn. 1965, c. 14, s. 73 (6). Where consent given

(8) No consent required by this section is invalid by reason only of the fact that the person giving it is under twenty-one years of age. 1970, c. 96, s. 21 (3), *part*. Consent not invalid by reason of age

**74.** An affidavit of execution in the prescribed form shall be attached to every consent required under this Part and to every cancellation under subsection 2 of section 73. 1965, c. 14, s. 74. Affidavit of execution

**75.—**(1) An adoption order in respect of a child who is under twenty-one years of age and who has not been married shall not be made unless the Director certifies in writing, Director's certificate

- (a) that the child has resided for six months or more with the applicant and that during that period the conduct of the applicant and the conditions under which the child has lived have been such as in the opinion of the Director justify the making of the order; or
- (b) that the applicant is to the knowledge of the Director a proper person to have the care and custody of the child and that for the reasons set out in the certificate it is in the best interests of the child that the period of residence be dispensed with,

and the Director, in giving his certificate under clause *a* or *b*, may bring to the attention of the court any additional circumstances of the case that, in his opinion, the court may wish to take into account before the making of the order.

(2) In the case of a child referred to in subsection 1 who has been placed for adoption by a children's aid society, the certificate referred to in clause *a* of that subsection is sufficient if it is signed by the local director. 1965, c. 14, s. 75. Local director's certificate

**76.** Upon the hearing of an application for adoption, where the child is seven or more years of age, the court shall inquire into the capacity of the child to appreciate the nature of the application and shall, where practicable, hear the child. 1970, c. 96, s. 22. Procedure on application

Duty  
of court

**77.** The court before making an adoption order shall be satisfied,

- (a) that every person who has given a consent under this Part understands the nature and effect of the adoption order; and
- (b) that the order will be in the best interests of the child. 1965, c. 14, s. 76.

Surname

**78.**—(1) Upon an adoption order being made and unless the adoption order provides for the adopted child to retain his surname, the adopted child shall assume the surname of the adopting parent.

Given  
names

(2) In an adoption order, the court may in its discretion change the Christian or given name or names as the adopting parent desires, and thereafter the adopted child is entitled to and is to be known by the name or names so given. 1965, c. 14, s. 77.

Born out  
of wedlock  
not to  
appear

**79.** If the adopted child was born out of wedlock, that fact shall not appear upon the adoption order. 1965, c. 14, s. 78.

Papers to  
be sealed  
up

**80.**—(1) The papers used upon an application for an adoption order shall be sealed up and filed in the office of the court by the proper officer of the court and shall not be open for inspection except upon an order of the court or the written direction of the Director.

Trans-  
mission  
of order

(2) Within thirty days after the making of an adoption order, the proper officer of the court shall cause to be made a sufficient number of certified copies thereof under the seal of the proper certifying authority and shall transmit,

- (a) the original order to the adopting parent;
- (b) one certified copy to the Director; and
- (c) one certified copy to the Registrar General, or, where the adopted child was born outside Ontario, two certified copies to the Registrar General. 1965, c. 14, s. 79.

Interim  
order

**81.**—(1) Upon an application for an adoption order, the court, with the written approval of the Director, may postpone the determination of the application and make an interim order giving the custody of the child sought to be adopted to the applicant for a period not exceeding one year by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the child and otherwise as the court thinks fit.

Idem

(2) An interim custody order is not an adoption order.

(3) All consents required for an adoption order are necessary for an interim custody order, subject to a like power in the court to dispense with any such consent requirement. Consents

(4) Where an applicant has obtained an interim custody order and subsequently takes up residence outside Ontario, the court may nevertheless make the adoption order applied for if the Director makes the certificate mentioned in section 75. 1965, c. 14, s. 80. Residence outside Ontario

**82.** An adoption order or an interim custody order may be made in respect of a child who has previously been the subject of an adoption order, and the adopting parent under the adoption order last previously made shall, if living, be deemed to be the parent of the child for the purposes of this Part. 1965, c. 14, s. 81. Effect of order on previous adoption

**83.—**(1) For all purposes, as of the date of the making of an adoption order, Status of adopted child

- (a) the adopted child becomes the child of the adopting parent and the adopting parent becomes the parent of the adopted child; and
- (b) the adopted child ceases to be the child of the person who was his parent before the adoption order was made and that person ceases to be the parent of the adopted child,

as if the adopted child had been born in lawful wedlock to the adopting parent.

(2) The relationship to one another of all persons whether the adopted child, the adopting parent, the kindred of the adopting parent, the parent before the adoption order was made, the kindred of that former parent or any other person shall, for all purposes, be determined in accordance with subsection 1. Application of subs. 1 to relationship of persons

(3) This section applies and shall be deemed to have always applied with respect to any adoption made under any legislation heretofore in force, but not so as to affect any interest in property or right that has vested before the commencement of this section. Application of section

(4) Subsections 1 and 2 do not apply for the purposes of the laws relating to incest and the prohibited degrees of marriage to remove any person from a relationship in consanguinity that, but for this section, would have existed. 1970, c. 96, s. 23, *part*. Exception

**84.** In any will or other document, whether heretofore or hereafter made, unless the contrary is expressed, a reference to a person or group or class of persons described in terms of relationship by blood or marriage to another person shall be deemed to References in will or other document

refer to or include, as the case may be, a person who comes within the description as a result of his own adoption or the adoption of another person. 1970, c. 96, s. 23, *part*.

Effect of  
adoptions  
under other  
laws

**85.** An adoption effected according to the law of any other province or territory of Canada or of any other country, or part thereof, before or after the commencement of this section, has the same effect in Ontario as an adoption under this Act. 1970, c. 96, s. 23, *part*.

Duty of  
children's  
aid society  
to secure  
adoption

**86.**—(1) Every children's aid society shall endeavour to secure the adoption of Crown wards, having regard to the individual needs of each ward.

Report to  
Director

(2) Every children's aid society shall, within one year after a Crown ward is committed to its care, report to the Director in the prescribed form the efforts made to secure the adoption of the ward and the facts relevant to his adoption.

Idem

(3) Every children's aid society shall submit to the Director a quarterly return in the prescribed form showing, as at the end of each quarter, the adoption status of each Crown ward in its care and of applicants as adoptive parents. 1965, c. 14, s. 84.

Registra-  
tion of  
placement

**87.**—(1) Every person, other than a children's aid society, who places a child with another person on the understanding that the other person will adopt the child shall, within thirty days after the day on which the child was so placed, register the placement with the Director in the prescribed form.

Information

(2) At the request of the Director, a children's aid society shall, within fifteen days after the receipt of the request, obtain such information respecting a placement as he requires and shall forthwith transmit the information to the Director together with its opinion as to the suitability of the placement.

Offence

(3) Every person who fails to comply with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1965, c. 14, s. 85.

Penalty for  
payments in  
connection  
with  
adoptions

**88.** Every person who gives or receives or agrees to give or to receive any payment or reward, either directly or indirectly, in consideration of the adoption of a child under this Part, or who gives or receives or agrees to give or to receive any payment or reward, either directly or indirectly, to procure a child for the purpose of adoption is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than three years, or to both. 1965, c. 14, s. 86.



## PART V

## REGULATIONS

**89.** The Lieutenant Governor in Council may make regula- Regulations  
tions,

- (a) prescribing additional duties of the Director;
- (b) prescribing the records that shall be kept by children's aid societies and the returns that shall be made under this Act;
- (c) requiring children's aid societies to make such returns and reports as are prescribed;
- (d) prescribing the standard of services that children's aid societies shall provide;
- (e) prescribing provisions to be included in the by-laws of children's aid societies;
- (f) prescribing adjustments in the determination of the population of a municipality for the purposes of section 8;
- (g) defining "operating costs" for the purposes of section 8;
- (h) prescribing the manner of determining the proportion of an approved estimate that is referable to each municipality in the area served by a children's aid society;
- (i) prescribing the manner of determining and paying the costs of care and services provided by children's aid societies for Indians for the purposes of section 13;
- (j) prescribing the times and manner of payment of approved estimates of expenditures, including advances before estimates of expenditures are approved;
- (k) prescribing the times and manner of payment of capital grants under section 14;
- (l) prescribing special needs of children for which joint facilities may be established under section 17;
- (m) prescribing the amount that shall be paid by parents for the purposes of subsection 1 of section 27;
- (n) governing the construction, alteration, remodelling, extension and equipment of receiving homes;
- (o) specifying jurisdictions other than provinces or territories of Canada for the purposes of section 47;
- (p) prescribing rules under which applications under this Act or any Part thereof are to be made, and dealing generally with all matters of procedure under this Act or any Part thereof;

- (q) for fixing fees, costs, charges and expenses payable on proceedings under this Act or any Part thereof and for dispensing with the payment of such fees, costs, charges and expenses where, owing to lack of means or for any other reason, the judge considers such action advisable;
- (r) prescribing forms and providing for their use;
- (s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act or any Part thereof. 1965, c. 14, s. 87; 1966, c. 17, s. 5; 1970, c. 96, s. 24.

**Moneys**

**90.** The Moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1965, c. 14, s. 89, *amended*.

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## CHAPTER 65

## The Children's Boarding Homes Act

## 1. In this Act,

Interpre-  
tation

- (a) "child" means a boy or girl actually or apparently under sixteen years of age;
- (b) "children's boarding home" means a premises in which five or more children who are not related to one another through a parent, step-parent or grand-parent are lodged, boarded or cared for, but does not include,
  - (i) a foster home or institution supervised or operated by a children's aid society under *The Child Welfare Act*, R.S.O. 1970, c. 64
  - (ii) a private home in which there are foster children who are beneficiaries under *The Family Benefits Act*, R.S.O. 1970, c. 157
  - (iii) a house that is registered under *The Maternity Boarding Houses Act*, R.S.O. 1970, c. 264
  - (iv) a hospital or institution that is in receipt of any provincial aid,
  - (v) a house that is licensed under *The Private Hospitals Act*, R.S.O. 1970, c. 361
  - (vi) a day nursery established and operated under *The Day Nurseries Act*, R.S.O. 1970, c. 104
  - (vii) a charitable institution within the meaning of *The Charitable Institutions Act*, R.S.O. 1970, c. 62
- (c) "Department" means the Department of Social and Family Services;
- (d) "Minister" means the Minister of Social and Family Services;
- (e) "provincial inspector" means a member of the staff of the Department who is designated as a provincial inspector by the Minister;
- (f) "Registrar" means the member of the staff of the Department who is designated as the Registrar of Children's Boarding Homes by the Minister;
- (g) "regulations" means the regulations made under this Act. R.S.O. 1960, c. 54, s. 1; 1962-63, c. 13, s. 1, amended.

Administra-  
tion

**2.** The Minister shall administer and enforce this Act and the regulations. R.S.O. 1960, c. 54, s. 2.

Registrar

**3.** The Minister shall designate an officer of the Department as Registrar for the purposes of this Act and the regulations. R.S.O. 1960, c. 54, s. 3.

Inspectors

**4.** The Minister may designate one or more officers of the Department as provincial inspectors for the purposes of this Act and the regulations. R.S.O. 1960, c. 54, s. 4.

Children's  
boarding  
homes to be  
registered

**5.—(1)** No premises shall be used by any person as a children's boarding home unless the home is registered under this Act.

Offence

**(2)** Where premises are used as a children's boarding home in contravention of subsection 1, the occupier and all persons concerned in the management of the home are severally guilty of an offence and on summary conviction are liable to a fine of not more than \$25 for every day during which such use is continued. R.S.O. 1960, c. 54, s. 5.

Registration

**6.—(1)** Upon application in the prescribed form and upon payment of the prescribed fee by the applicant, the Registrar shall record in a register kept by him for the purpose the name and address of the applicant, the name, if any, and address of the children's boarding home, the date of registration and such other particulars as the regulations prescribe.

Idem

**(2)** Subject to section 8, every registration remains in force for twelve months and, upon application therefor in the prescribed form and upon payment of the prescribed fee by the applicant, is renewable for a period of twelve months.

Offence

**(3)** Every person who knowingly makes any false statement in an application for registration or for renewal of registration is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 54, s. 6.

Maximum  
number of  
children

**7.—(1)** Before making a registration, the Registrar shall determine the maximum number of children that may be lodged, boarded or cared for at any one time in the premises to which the registration is to apply.

Offence

**(2)** Where a children's boarding home is used at any time, except in the case of emergency, to lodge, board or care for a greater number of children than the maximum determined by the Registrar under subsection 1, the occupier of the premises and all persons concerned in the management of the home are severally guilty of an offence and on summary conviction are liable to a fine of not more than \$25 for every day during which such use is continued. R.S.O. 1960, c. 54, s. 7.



**8.**—(1) The registration of a children's boarding home may at any time be cancelled by the Registrar, Cancellation of registration

- (a) if the occupier of the premises or any person concerned in the management of the home has been convicted of an offence against this Act or of any offence punishable by imprisonment; or
- (b) if, in the opinion of the Registrar, the premises are unsanitary or without proper fire protection or the home is operated in a manner contrary to the regulations or in such a manner that the cancellation of the registration is required in the public interest.

(2) Before a registration is cancelled, the Registrar shall give notice to the occupier of the premises of the ground or grounds on which it is proposed to cancel the registration and shall afford him an opportunity of showing cause why the registration should not be cancelled. R.S.O. 1960, c. 54, s. 8. Notice

**9.**—(1) Every occupier of premises registered under this Act shall keep or cause to be kept a register of children in the home containing, Register of children

- (a) the name, age, sex and former place of abode of each child in the home;
- (b) the name and address of the parents or other persons having charge of each child before he entered the home;
- (c) the date upon which each child entered the home;
- (d) the date upon which each child left the home and the name and address of the person in whose charge he was when he left the home; and
- (e) such other particulars as the regulations prescribe.

(2) The particulars required by subsection 1 shall be entered in the register as soon as practicable after the entry or the leaving, as the case may be, of the child to whom the entry relates. Idem

(3) Every person who fails to comply with this section or who knowingly makes an untrue entry in such a register is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 54, s. 9. Offence

**10.** Every person who causes a child to be lodged, boarded or cared for in a children's boarding home that is not registered under this Act and every parent, guardian or other person who is under a legal duty to provide for a child and who permits the child to be lodged, boarded or cared for in such a home is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 54, s. 10. Placing child in unregistered home, offence

Child in  
unregistered  
home  
deemed  
child in  
need of  
protection  
R.S.O. 1970,  
c. 64

Inspection

**11.** A child who is lodged, boarded or cared for in a children's boarding home that is not registered under this Act shall be deemed to be a child in need of protection within the meaning of and for the purposes of Part II of *The Child Welfare Act*. R.S.O. 1960, c. 54, s. 11, *amended*.

**12.**—(1) Every children's boarding home and its registers and records shall at all times be open to inspection by a provincial inspector.

Provincial  
inspector  
may enter  
premises

(2) Where a provincial inspector believes or suspects that any premises is being used as a children's boarding home without being registered under this Act, he may at any time and from time to time enter and inspect the premises and every part thereof, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 54, s. 12.

Expenses of  
administra-  
tion

**13.** The moneys required for the purposes of this Act and the regulations are payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 54, s. 13, *amended*.

Regulations

**14.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional powers and duties of the Registrar;
  - (b) prescribing additional powers and duties of provincial inspectors;
  - (c) prescribing additional particulars to be recorded in the register mentioned in section 6;
  - (d) prescribing additional particulars to be recorded in the register mentioned in section 9;
  - (e) prescribing the returns that shall be made to the Minister by the occupiers of premises registered under this Act;
  - (f) prescribing rules governing and regulating the operation of homes under this Act;
  - (g) prescribing the fee payable by applicants for registration or renewal of registration under this Act;
  - (h) prescribing forms and providing for their use;
  - (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 54, s. 14.
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## CHAPTER 66

## The Children's Institutions Act

## 1. In this Act,

Interpretation

- (a) "approved children's institution" means a children's institution approved under section 3;
- (b) "approved corporation" means a corporation approved under section 2;
- (c) "child" means a person under twenty-one years of age;
- (d) "children's institution" means a building or buildings maintained and operated by an approved corporation for children requiring sheltered, specialized or group care, but does not include,
  - (i) a charitable institution under *The Charitable Institutions Act*, R.S.O. 1970, c. 62
  - (ii) a children's boarding home that is registered under *The Children's Boarding Homes Act*, R.S.O. 1970, c. 65
  - (iii) a hospital under *The Children's Mental Hospitals Act*, R.S.O. 1970, c. 69
  - (iv) a place of safety or a receiving home within the meaning of Part II of *The Child Welfare Act*, R.S.O. 1970, c. 64
  - (v) a day nursery established and operated under *The Day Nurseries Act*, R.S.O. 1970, c. 104
  - (vi) a house that is registered under *The Maternity Boarding Houses Act*, R.S.O. 1970, c. 264
  - (vii) a home for retarded persons under *The Homes for Retarded Persons Act*, R.S.O. 1970, c. 204
  - (viii) an institution under *The Mental Hospitals Act*, R.S.O. 1970, c. 270
  - (ix) a private hospital under *The Private Hospitals Act*, R.S.O. 1970, c. 361
  - (x) a sanitarium under *The Private Sanitaria Act*, R.S.O. 1970, c. 363
  - (xi) a children's mental health centre under *The Children's Mental Health Centres Act*, R.S.O. 1970, c. 68
  - (xii) a hospital under *The Public Hospitals Act*, R.S.O. 1970, c. 378
  - (xiii) a sanatorium under *The Sanatoria for Consumptives Act*, R.S.O. 1970, c. 422
- (e) "Minister" means the Minister of Social and Family Services;

- (f) "provincial supervisor" means a child welfare supervisor or a welfare institutions supervisor and includes any other employee of the Department of Social and Family Services who is designated by the Minister as a provincial supervisor for the purposes of this Act;
- (g) "regulations" means the regulations made under this Act. 1962-63, c. 14, s. 1; 1968, c. 13, s. 1, *amended*.

Approval of  
corporations

**2.** The Lieutenant Governor in Council may approve for the purposes of this Act any corporation without share capital having objects of a charitable nature,

R.S.O. 1970,  
c. 89

- (a) to which Part III of *The Corporations Act* applies; or
- (b) that is incorporated under a general or special Act of the Parliament of Canada. 1968, c. 13, s. 2.

Approval of  
children's  
institutions

**3.** The Lieutenant Governor in Council may approve children's institutions for the purposes of this Act and such approval may take effect on any date fixed by the Lieutenant Governor in Council that is prior to the date on which the approval is given, but in no case shall the date on which the approval takes effect precede the date of the approval given under section 2 to the corporation maintaining and operating the children's institution. 1962-63, c. 14, s. 3; 1968, c. 13, s. 3.

Restrictions  
upon  
approved  
corporations

**4.—(1)** No approved corporation shall,

- (a) maintain or operate any building or part thereof as a children's institution until the building is approved under section 3;
- (b) change its name or the name of any children's institution maintained and operated by it without the approval in writing of the Minister;
- (c) erect a new building to be used as a children's institution until the site and plans thereof are approved in writing by the Minister, or erect an addition to an existing building used or to be used as a children's institution until the plans thereof are approved in writing by the Minister;
- (d) purchase or otherwise acquire any building to be used by it as a children's institution without the approval in writing of the Minister; or
- (e) change the site of, sell or otherwise dispose of any part of, or structurally alter, any children's institution in respect of which the approved corporation has received payment of a grant under section 5 or 6 of this Act, or any predecessor thereof, without the approval in writing of the Minister.



(2) No by-law of an approved corporation with respect to a children's institution has force or effect until it is approved in writing by the Minister. 1962-63, c. 14, s. 4.

Approval  
of by-laws

**5.** When the site and plans of a new building or the plans of an addition to an existing building used or to be used as a children's institution have been approved by the Minister under clause *c* of subsection 1 of section 4, the Lieutenant Governor in Council may, out of the moneys appropriated therefor by the Legislature, direct payment to the approved corporation erecting the new building or the addition of an amount equal to the cost to the approved corporation of the new building or the addition, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the new building or the addition at the rate of \$5,000 per bed. 1965, c. 15, s. 1.

Grants for  
construction  
of buildings  
or additions

**6.** When the acquisition of a building to be used as a children's institution has been approved by the Minister under clause *d* of subsection 1 of section 4, the Lieutenant Governor in Council may, out of the moneys appropriated therefor by the Legislature, direct payment to the approved corporation acquiring the building of an amount equal to the cost of the approved corporation of the acquisition, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the building at the rate of \$1,200 per bed. 1965, c. 15, s. 2.

Grants for  
acquisition  
of buildings

**7.** There shall be paid to an approved corporation out of the moneys appropriated therefor by the Legislature an amount equal to 80 per cent of the cost, computed in accordance with the regulations, of services provided by an approved children's institution that is maintained and operated by the corporation for children who are not wards of the Crown or wards of a children's aid society under *The Child Welfare Act*. 1968, c. 13, s. 4.

Subsidy for  
operating  
and main-  
tenance  
costs

R.S.O. 1970,  
c. 64

**8.—(1)** A provincial supervisor shall inspect every children's institution and examine the books of account and any other records of the institution at least once each year, but he may inspect any children's institution or examine the books of account and the other records at any time.

Inspection  
of children's  
institutions

(2) A provincial supervisor may inspect the books of account and other records of an approved corporation that pertain to children's institutions. 1962-63, c. 14, s. 9.

Inspection  
of records  
of approved  
corporation

**9.** Any approval given under this Act may be suspended by the Minister or revoked by the Lieutenant Governor in Council at any time. 1962-63, c. 14, s. 10.

Revocation  
and  
suspension  
of approvals

Regulations

**10.** The Lieutenant Governor in Council may make regulations,

- (a) specifying the corporations and the children's institutions that are approved for the purposes of this Act and establishing classes of children's institutions;
- (b) establishing an advisory board consisting of not more than three persons and prescribing its duties;
- (c) prescribing rules governing children's institutions or any class thereof and the conduct of the children cared for therein and the staffs thereof;
- (d) governing the admission of children to children's institutions or to any class thereof and prescribing the kinds of children that may be cared for in any class of children's institutions and the care or treatment to be provided therein;
- (e) governing the qualifications and the powers and duties of the members of the staffs of children's institutions or any class thereof;
- (f) requiring and prescribing medical and other related or ancillary services for the care and treatment of children in children's institutions or in any class thereof;
- (g) governing applications by approved corporations for payments under this Act and prescribing the method, time and manner of payment;
- (h) prescribing the manner of computing the cost to approved corporations for the purposes of sections 5 and 6;
- (i) prescribing the manner of computing the cost of services provided for children by a children's institution for the purposes of section 7;
- (j) prescribing the records to be kept by approved corporations and children's institutions, the claims and returns to be made to the Minister by approved corporations with respect to children's institutions and the method, time and manner in which such claims and returns shall be made and providing penalties for late claims or returns;
- (k) providing for the recovery by an approved corporation or Ontario from the person or persons in whose charge a child is or from the estate of such person or persons of any amount paid by the corporation or by Ontario to the corporation for the cost of the care and maintenance of the child in a children's institution and prescribing the circumstances and the manner in which any such recovery may be made;

- (*l*) prescribing additional powers and duties of provincial supervisors;
  - (*m*) prescribing forms and providing for their use;
  - (*n*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 14, s. 11; 1965, c. 15, s. 4 (1); 1966, c. 18, s. 2 (2); 1968, c. 13, s. 5.
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## CHAPTER 67

### The Children's Maintenance Act

**1.** Every parent shall maintain and educate his child or children under the age of sixteen years, regard being had to his station in life and means and to the ability of the child or children to maintain himself or themselves. R.S.O. 1960, c. 55, s. 1. Liability of parent

**2.** Every parent who fails without lawful excuse to comply with section 1 is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than three months. R.S.O. 1960, c. 55, s. 2. Offence

**3.** Nothing in this Act shall be construed as compelling any special remedial treatment for a child contrary to the objection of the parent, guardian or person acting *in loco parentis*. R.S.O. 1960, c. 55, s. 3. Remedial treatment

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## CHAPTER 68

**The Children's Mental Health Centres  
Act****1.** In this Act,Interpre-  
tation

- (a) "Board" means the Licensing Board of Review established under section 7;
- (b) "children's mental health centre" or "centre" means premises, facilities and services provided for children suffering from mental or emotional disorders and designated as such by the regulations;
- (c) "Director" means the Director of the Children's Service Branch of the Mental Health Division of the Department of Health;
- (d) "Minister" means the Minister of Health;
- (e) "regulations" means the regulations made under this Act. 1968-69, c. 10, s. 1.

**2.** Where the provisions of any Act, except *The Mental Health Act* and the regulations thereunder, conflict with this Act or the regulations, the provisions of this Act and the regulations prevail, and any provision in any other Act requiring or authorizing the licensing or registration of a children's mental health centre in any other capacity does not apply. 1968-69, c. 10, s. 2.

Application  
of  
R.S.O. 1970,  
c. 269

**3.** The Minister, with the approval of the Lieutenant Governor in Council, may establish and operate one or more children's mental health centres. 1968-69, c. 10, s. 3.

Centres  
established  
by Minister

**4.—(1)** No person shall establish, operate or maintain a centre except under the authority of a licence issued by the Director and the Director may issue a licence upon such terms and subject to such conditions as are specified in the licence or the regulations.

Licences  
required

(2) Subsection 1 does not apply to a facility established under section 3. 1968-69, c. 10, s. 4.

Exception

**5.** The Director may refuse to issue a licence,Refusal  
to issue

- (a) where the proposed operation would be in contravention of this Act or the regulations; or
- (b) where there is no public need for the centre in the area where the applicant proposes to establish, operate or maintain a centre. 1968-69, c. 10, s. 5.

Revocation  
of licences

**6.** Subject to sections 8 to 14, the Director may revoke a licence where the centre is operated,

- (a) in contravention of this Act or the regulations;
- (b) in breach of a condition of the licence; or
- (c) in a manner that, in the opinion of the Director, is contrary to the best interests of the public or of the children. 1968-69, c. 10, s. 6.

Licensing  
Board of  
Review

**7.—(1)** The Lieutenant Governor in Council shall appoint a board, consisting of not more than five members, to be known as the Licensing Board of Review, and may designate one member of the Board as chairman.

Quorum

(2) Three members of the Licensing Board of Review constitute a quorum. 1968-69, c. 10, s. 7.

Refusal to  
issue or  
revocation

**8.—(1)** Where the Director refuses to issue or proposes to revoke a licence, he shall give notice thereof to the applicant or licensee, together with written reasons for his refusal or proposed revocation, and the applicant or licensee may, by written notice given to the Director and the Board within fifteen days after the receipt of the notice of refusal or proposed revocation, require a hearing by the Board.

Hearing  
by Board

(2) The Board shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Contents  
of notice

(3) The notice of hearing shall contain,

- (a) a statement of the time and place of the hearing which shall not be longer than thirty days after notice is given to the Board under subsection 1;
- (b) a statement of the statutory power under which the hearing is being held;
- (c) a reference to the rules of procedure applicable to the hearing;
- (d) a concise statement of the issues; and
- (e) a statement that, if a party who has been duly notified does not attend at the hearing, the Board may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 10, s. 8.

Parties

**9.—(1)** The Director, the applicant or licensee and any other person specified by the Board are parties to the hearing.

Failure to  
attend

(2) If a person who has been duly notified of a hearing does not attend, the Board may proceed in his absence. 1968-69, c. 10, s. 9.

**10.**—(1) A hearing may be adjourned from time to time by the Board on reasonable grounds, Adjournment

- (a) on its own motion; or
- (b) on the motion of any party to the hearing.

(2) The Board may command the attendance before it of any person as a witness. Subpoenas

(3) The Board may require any person, Oaths

- (a) to give evidence on oath or by affirmation at a hearing; and
- (b) to produce such documents and things as the Board requires.

(4) The Board may admit evidence not given under oath. Idem

(5) Any person who, without lawful excuse, Offences

- (a) on being duly summoned as a witness before the Board, makes default in attending; or
- (b) being in attendance as a witness before the Board, refuses to take an oath or affirmation legally required by the Board to be taken, or to produce any document or thing in his power or control legally required by the Board to be produced by him, or to answer any question to which the Board may legally require an answer; or
- (c) does any other thing that would, if the Board had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence.

(6) The Board may certify an offence under subsection 5 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1968-69, c. 10, s. 10. Enforcement

**11.**—(1) Any party may be represented before the Board by counsel or agent. Right of party to counsel

(2) Any witness may be represented before the Board by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law. Right of witness to counsel

(3) Any party who is present at a hearing before the Board may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions. Rights of parties at hearing



Hearings  
public

(4) All hearings shall be open to the public except where, in the opinion of the Board, it would not be in the best interests of a child in a centre, in which case the Board shall hold the hearing or part thereof affecting such matter *in camera*.

Exclusion of  
counsel

(5) Where a hearing is *in camera*, a counsel or agent for a witness shall be excluded except when that witness is giving evidence. 1968-69, c. 10, s. 11.

Evidence

**12.**—(1) Upon a review, the Board shall hear such evidence as is submitted to it that in its opinion is relevant to the matter in dispute, and all oral evidence submitted shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by the Board, form the record.

Release of  
exhibits

(2) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined. 1968-69, c. 10, s. 12.

Powers of  
Board

**13.**—(1) The Board may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act the Director is authorized to do under this Act and as the Board considers proper and for this purpose the Board may substitute its opinion for that of the Director.

Decision to  
be in  
writing

(2) The decision of the Board, including the reasons therefor, shall be in writing.

Contents of  
reasons for  
decision

(3) The reasons for the final decision shall contain,

- (a) the findings of fact on the evidence and any information or knowledge used in reaching the decision;
- (b) any agreed findings of fact; and
- (c) the conclusions of law based on the findings mentioned in clauses *a* and *b*.

Notice of  
decision

(4) The Board shall serve each party with a copy of its final decision, together with the reasons therefor and a notice stating the right of appeal. 1968-69, c. 10, s. 13.

Appeal to  
Court of  
Appeal

**14.**—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Court of Appeal, and the practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court.

Counsel

(2) The Minister may designate counsel to assist the court upon the hearing of an appeal under this section.

Decision  
of court

(3) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Board or direct the Director or the Board to do any act the Director or the Board is authorized to do under this Act and as the

court considers proper, and the court may substitute its opinion for that of the Director and the Board and may exercise the same powers as it exercises on an appeal from a judge of the High Court sitting without a jury. 1968-69, c. 10, s. 14.

**15.** The Minister may at any time during the course of the proceedings under sections 8 to 14 apply *ex parte* to a judge of the High Court by originating notice of motion for an interim order authorizing the Minister to occupy and operate the centre under section 16, pending the outcome of the proceedings, and the judge may issue the order where, in the opinion of the judge, it is necessary for the best interests or protection of the children in the centre. 1968-69, c. 10, s. 15.

Order for interim management

**16.**—(1) Where the licence of a centre is revoked, and the revocation becomes final, the parent or guardian of each child in the centre shall arrange for the removal of the child as soon as is practicable in the best interests of the child and the Minister shall assist in finding alternative accommodation and treatment for the child.

Removal of children

(2) For the purposes of arranging alternative accommodation and treatment of children under subsection 1, the Minister may, notwithstanding sections 25 and 40 of *The Expropriations Act*, immediately occupy and operate the centre, or arrange for the centre to be occupied and operated by a person or organization designated by him, for a period not exceeding six months, but all the rights of the owner under that Act, except the right to possession, are preserved.

Interim management R.S.O. 1970, c. 154

(3) Where the licence of a centre is revoked, the operator and owner of the centre shall hand over to the Minister, or a person designated by him, all the records that are in their possession or control and that pertain to the children in the centre. 1968-69, c. 10, s. 16.

Records

**17.**—(1) The Minister may appoint inspectors for the purposes of this Act and the regulations and such appointment shall be in writing.

Inspectors

(2) Every centre and its books and records shall at all reasonable times be open to inspection by an inspector.

Duties

(3) Where an inspector believes on reasonable grounds that any premises are being used for the care and maintenance of a group of children of unrelated parentage suffering from mental and emotional disorders he may at any reasonable time, and from time to time, enter and inspect such premises and every part thereof. 1968-69, c. 10, s. 17.

Idem

**18.** Except where otherwise provided, any notice required by this Act to be given shall be served personally or, where personal

Service of notices

service cannot be effected, service is sufficient if sent by registered mail addressed to the person to whom notice is to be given at his last known address. 1968-69, c. 10, s. 18.

## Grants

**19.** The Minister shall pay children's mental health centres provincial aid out of moneys appropriated by the Legislature therefor in such manner and in such amounts and under such conditions as are prescribed by the regulations. 1968-69, c. 10, s. 19.

## Penalty

**20.**—(1) Subject to subsection 2, any person who contravenes this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000.

## Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$10,000 and not as provided therein.

## Idem

(3) Any person who prevents or obstructs or attempts to prevent or obstruct an inspector from entering premises or making an inspection authorized by this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$500.

## Limitation

(4) No proceeding under this section shall be commenced more than one year after the time when the subject-matter of the proceeding arose. 1968-69, c. 10, s. 20.

## Regulations

**21.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating centres for the purposes of clause *b* of section 1, and classifying such centres;
- (b) providing for issuing of licences or provisional licences for centres and prescribing the terms and conditions of licences;
- (c) governing the management, conduct, operation and use of centres;
- (d) governing and prescribing the accommodation, facilities, equipment and services in centres;
- (e) providing for the officers and staff of centres and their qualifications;
- (f) governing the establishment, location and construction of centres and their alteration and renovation;
- (g) classifying children suffering from mental or emotional disorders and limiting the classes of children that may be admitted to any centre or class thereof;
- (h) prescribing the classes of grants by way of provincial aid to any centre or class thereof and the methods of determining the amounts of grants and providing for the

manner and time of payment and the suspension and withholding of grants and for the making of deductions from grants;

- (i) prescribing additional duties for the Licensing Board of Review;
- (j) prescribing the duties and qualifications of inspectors;
- (k) requiring persons operating centres to furnish such information and returns as are prescribed;
- (l) prescribing forms for the purposes of this Act and the regulations and providing for their use.

(2) The regulations may provide that any provision is limited in its application to any specified class of centres. 1968-69, c. 10, s. 21. Application

**22.** The moneys required for the purposes of this Act shall be paid out of moneys that are appropriated therefor by the Legislature. 1968-69, c. 10, s. 22, *amended*. Moneys

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# CHAPTER 69

## The Children's Mental Hospitals Act

### 1. In this Act,

Interpre-  
tation

- (a) "board" means a board of governors appointed under this Act;
- (b) "hospital under this Act" means a hospital for the care and treatment of children suffering from emotional or psychiatric disorders that has been established or designated as a hospital under this Act;
- (c) "Minister" means the Minister of Health;
- (d) "patient" means a person received and lodged in a hospital under this Act for the purpose of treatment;
- (e) "regulations" means the regulations made under this Act;
- (f) "treatment" means the maintenance, observation, nursing, medical and other care of a patient. R.S.O. 1960, c. 56, s. 1; 1962-63, c. 15, s. 1.

**2.—(1)** The Lieutenant Governor in Council may establish one or more hospitals under this Act.

New  
hospitals

(2) The Lieutenant Governor in Council may designate any hospital in operation on the 30th day of April, 1960, as a hospital under this Act.

Existing  
hospitals

(3) The Lieutenant Governor in Council may designate the name by which any hospital under this Act is to be known. R.S.O. 1960, c. 56, s. 2.

Name

**3.** The Minister shall administer this Act and, except where a board has been appointed under section 4, he shall, through the Deputy Minister of Health and the superintendent of the hospital, administer every hospital under this Act. R.S.O. 1960, c. 56, s. 3.

Adminis-  
tration

**4.—(1)** The Lieutenant Governor in Council may appoint a board of governors composed of not fewer than eight members, including members *ex officio*, to establish, maintain and operate or to maintain and operate, as the case may be, any hospital under this Act.

Board of  
governors

(2) Every board is a body corporate.

Corporate  
status

- Vacancies (3) Vacancies in a board may be filled from time to time by the Lieutenant Governor in Council.
- Director and staff (4) A board may employ a director and such other officers and staff as are from time to time required for its purposes, and may pay the director, other officers and staff such remuneration as it considers proper out of its funds.
- By-laws (5) Subject to the approval of the Lieutenant Governor in Council, a board may make such by-laws, rules and regulations as it considers expedient for the administration of its affairs.
- Agreements (6) Subject to the approval of the Lieutenant Governor in Council, a board may make agreements with universities, medical associations, hospitals and persons for the purpose of carrying out its objects.
- Funds (7) The funds of a board consist of moneys received by it from any source and the board may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it considers proper.
- Audit of accounts (8) The accounts of a board shall be audited annually by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the board.
- Annual report (9) A board shall, after the close of each fiscal year, make a report upon its affairs during the preceding year to the Minister and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the board during the preceding year. R.S.O. 1960, c. 56, s. 4.
- Superintendent **5.** Subject to the direction of the Minister or, where there is a board, the board, the superintendent of a hospital under this Act shall be in charge of and have control over it and he shall superintend the conduct and management of its affairs and shall control its other officers and staff and the patients therein. R.S.O. 1960, c. 56, s. 5.
- Designation of public hospital R.S.O. 1970, c. 378 **6.** The Lieutenant Governor in Council may designate any hospital under this Act that has a board as a hospital within the meaning of *The Public Hospitals Act* for the purpose of entitling it to receive grants under that Act and its regulations in the same amount and manner as other public hospitals under that Act. R.S.O. 1960, c. 56, s. 6.
- Application of R.S.O. 1970, cc. 378, 270 **7.** The Lieutenant Governor in Council may designate any provision of *The Public Hospitals Act* or of the regulations thereunder or any provision of *The Mental Hospitals Act* or of the regulations thereunder as being applicable to any hospital under this Act. R.S.O. 1960, c. 56, s. 7.

**8.** The real and personal property, business and income of a <sup>Taxation</sup> hospital operated by a board under this Act is not subject to taxation for municipal or provincial purposes. R.S.O. 1960, c. 56, s. 8.

**9.** The Lieutenant Governor in Council may make regulations <sup>Regulations</sup> with respect to hospitals under this Act for,

- (a) their creation, establishment, construction, alteration, equipment, safety, maintenance and repair;
  - (b) their inspection, control, government, management, conduct, operation and use;
  - (c) their superintendents, other officers and staffs and the powers and duties thereof;
  - (d) their classifications, grades and standards, and the classification of patients, and the length of stay of and rates and charges for patients;
  - (e) the admission, treatment, care, conduct, control, custody and discharge of patients or any class of patients;
  - (f) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 56, s. 9.
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## CHAPTER 70

### The Chiropody Act

**1.** In this Act,

Interpre-  
tation

- (a) “Board” means the Board of Regents appointed under this Act;
- (b) “chiropodist” means a person, other than a legally qualified medical practitioner, who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human foot;
- (c) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 57, s. 1.

**2.—**(1) The Board of Regents is continued and shall be composed of five persons appointed by the Lieutenant Governor in Council. Board of  
Regents

(2) Every member of the Board shall hold office for a period of two years, but is eligible for reappointment on the expiration of his term of office. Term of  
office

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member. Vacancies

(4) The Lieutenant Governor in Council shall designate from time to time one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of the Board. R.S.O. 1960, c. 57, s. 2. Chairman,  
vice-chair-  
man and  
secretary-  
treasurer

**3.** The Board, with the approval of the Lieutenant Governor in Council, may make regulations, Regulations

- (a) for the admission of chiropodists to practise in Ontario and for the registration of all persons so admitted and for the issuing of certificates of registration;
- (b) prescribing the training and qualifications of persons so to be admitted and the proofs to be furnished as to education and good character;
- (c) providing for approval of schools, colleges or universities, and prescribing educational standards, methods and hours of training and instruction facilities, and other requirements for approved schools, colleges or universities;



- (d) providing for the appointment of examiners and the examination and re-examination of applicants for registration as chiropodists, prescribing the subjects for examination, the minimum standards to be obtained on examination or re-examination, and the fees to be paid on examination and re-examination;
- (e) for maintaining a register of persons so admitted to practise, and providing for the annual renewal of registration and prescribing the fees to be paid therefor;
- (f) providing for the holding of meetings of the Board, the business to be transacted thereat, the quorum and the powers and duties of the Board and of the chairman, vice-chairman and secretary-treasurer of the Board;
- (g) providing for the payment of a per diem allowance and an allowance for travelling and living expenses to members of the Board while engaged on business of the Board, and payment of compensation to the secretary-treasurer of the Board in lieu of a per diem allowance;
- (h) providing for the employment of such persons or services as may be required and for the payment of salaries, fees and expenses and generally for payment out of funds at the disposal of the Board;
- (i) prescribing the books and records to be kept by the Board;
- (j) providing for the auditing of the books and accounts of the Board;
- (k) prescribing the discipline and control of registered chiropodists and regulating the manner of carrying on their business;
- (l) designating and regulating the manner in which a registered chiropodist may describe his qualification or occupation and prohibiting the use of any title, affix or prefix that in the opinion of the Board is calculated to mislead the public as to the qualification of any such person and for allowing the use of any affix or prefix not forbidden by section 59 of *The Medical Act* that in the opinion of the Board will correctly describe the qualification or occupation of such person;
- (m) providing for the investigation of any complaint that a registered chiropodist has been guilty of misconduct or displayed such ignorance or incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (n) providing for the cancellation or suspension of the registration of any person found by the Board to be

guilty of misconduct or of any contravention of this Act or the regulations, or to have been ignorant or incompetent;

- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 57, s. 3.

**4.** Nothing in this Act or the regulations authorizes a chiropodist,

- (a) to administer a drug internally or to prescribe a drug for use internally;
- (b) to administer an anaesthetic other than a substance applied externally to the skin; or
- (c) to practise medicine, surgery or midwifery,

Act does not authorize general practice of medicine

but nothing in this Act or the regulations prevents the treatment by a registered chiropodist of morbid conditions of the nails and skin and the resulting minor morbid conditions of the subcutaneous tissues of the human foot. R.S.O. 1960, c. 57, s. 4

**5.** Every person who, not being registered as a chiropodist under this Act or who having been so registered and whose registration has been cancelled or is under suspension, practises or holds himself out as practising as a chiropodist within the meaning of this Act, or who advertises or uses or affixes any prefix to his name signifying that he is qualified to practise as a chiropodist within the meaning of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$100 and upon conviction for a subsequent offence within a period of two years after such first conviction shall be imprisoned for a term of not more than three months. R.S.O. 1960, c. 57, s. 5.

Penalty for unauthorized practise

**6.—(1)** In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Board, is sufficient proof of all persons who are registered chiropodists in lieu of the production of the original register, and any certificate upon the printed or other copy of the register purporting to be signed by a person in his capacity of secretary-treasurer of the Board under this Act is *prima facie* proof that the person is the secretary-treasurer.

Proof of registration

(2) The absence of the name of a person from the copy is *prima facie* proof that the person is not registered under this Act.

Evidence of non-registration

(3) In the case of a person whose name does not appear in the copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of the person on the register is *prima facie* proof that the person is registered under this Act. R.S.O. 1960, c. 57, s. 6.

Omission of name from copy

Where Act  
does not  
apply

**7.** Nothing in this Act applies to or affects,

- (a) the practice of any profession or calling under any general or special Act of the Legislature;
- (b) any nurse acting in the absence of, or under the prescription or direction of, a legally qualified medical practitioner;
- (c) the furnishing of first aid or temporary assistance in cases of emergency;
- (d) persons treating human ailments by prayer or spiritual means as an enjoyment or exercise of religious freedom. R.S.O. 1960, c. 57, s. 7.

Compliance  
with other  
statutes not  
affected  
R.S.O. 1970,  
cc. 377, 483

**8.** Nothing in this Act or the regulations shall be taken or deemed to relieve any person from compliance with *The Public Health Act*, *The Vital Statistics Act* or any legal duty to provide for the treatment of a person by a legally qualified medical practitioner. R.S.O. 1960, c. 57, s. 8.

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CHAPTER 71

The Collection Agencies Act

1. In this Act,

Interpre-  
tation

- (a) “collection agency” means a person other than a collector who deals with a debtor for the purpose of obtaining or arranging for payment of money owing to another person, or who holds out to the public that he provides such a service or any person who sells or offers to sell forms or letters represented to be a collection system or scheme;
- (b) “collector” means a person employed, appointed or authorized by a collection agency to solicit business or collect debts for the agency or to deal with or trace debtors for the agency;
- (c) “Department” means the Department of Financial and Commercial Affairs;
- (d) “Director” means the Director of the Consumer Protection Division of the Department;
- (e) “Minister” means the Minister of Financial and Commercial Affairs;
- (f) “prescribed” means prescribed by this Act or the regulations;
- (g) “registered” means registered under this Act;
- (h) “Registrar” means the Registrar of Collection Agencies;
- (i) “regulations” means the regulations made under this Act;
- (j) “Tribunal” means The Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*. 1968-69, c. 11, s. 1.

R.S.O. 1970,  
c. 113

2. This Act does not apply,

Application  
of Act

- (a) to a barrister or solicitor in the regular practice of his profession or to his employees;
- (b) to an insurer, agent or broker licensed under *The Insurance Act* to the extent of the business authorized by such licence or to his employees;

R.S.O. 1970,  
c. 224

- R.S.C. 1952,  
cc. 14, 296  
R.S.O. 1970,  
cc. 89, 53, 228
- (c) to an assignee, custodian, liquidator, receiver, trustee or other person licensed or acting under the *Bankruptcy Act* (Canada), *The Corporations Act*, *The Business Corporations Act*, *The Judicature Act* or the *Winding-up Act* (Canada) or a person acting under the order of any court;
- R.S.O. 1970,  
c. 401
- (d) to a broker or salesman registered under *The Real Estate and Business Brokers Act*, or an official or other employee of such a broker to the extent of the business authorized by the registration;
- 1966-67,  
c. 87 (Can.)
- (e) to a bank to which the *Bank Act* (Canada) applies, the Province of Ontario Savings Office, a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an employee thereof in the regular course of his employment;
- R.S.O. 1970,  
c. 254
- (f) to an isolated collection made by a person whose usual business is not collecting debts for other persons; or
- (g) to a person providing counselling services in respect of consumer credit and receiving public money under *The Consumer Protection Bureau Act* for the purpose. 1968-69, c. 11, s. 2.
- R.S.O. 1970,  
c. 83

Registrar **3.—**(1) There shall be a Registrar of Collection Agencies who shall be appointed by the Lieutenant Governor in Council.

Duties of Registrar (2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. 1968-69, c. 11, s. 3.

Registration **4.—**(1) No person shall carry on the business of a collection agency or act as a collector unless he is registered by the Registrar under this Act.

Name and place of business (2) A registered collection agency shall not carry on business in a name other than the name in which it is registered or invite the public to deal at a place other than that authorized by the registration. 1968-69, c. 11, s. 4.

Use of name to collect debts **5.** No creditor shall deal with his debtor for payment of the debt except under the name in which the debt is lawfully owing or through a registered collection agency. 1968-69, c. 11, s. 5.

Registration **6.—**(1) An applicant is entitled to registration or renewal of registration except where,

- (a) his financial responsibility or record of past conduct is such that it would not be in the public interest for the registration or renewal to be granted;



- (b) where the applicant is a corporation, its financial responsibility or the record of past conduct of the corporation or its officers or directors is such that it would not be in the public interest for the registration or renewal to be granted; or
- (c) the applicant is or proposes to be in contravention of this Act or the regulations.

(2) A registration is subject to such terms and conditions as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1968-69, c. 11, s. 6.

Conditions  
of  
registration

**7.**—(1) The Tribunal may, upon the application of the Registrar, suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 6 if he were an applicant, or where the registrant is in breach of a condition of the registration.

Revocation

(2) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration. 1968-69, c. 11, s. 7.

Voluntary  
cancellation

**8.**—(1) Where the Registrar refuses to issue or renew a registration or applies to the Tribunal to suspend or revoke a registration, he shall serve notice upon the applicant or registrant, together with written reasons for his refusal or for the proposed suspension or revocation, and the applicant or registrant may, by written notice served upon the Registrar and the Tribunal within fifteen days after the service of the notice of refusal or proposed suspension or revocation, require a hearing by the Tribunal.

Hearing by  
Tribunal

(2) Where the Registrar refuses to renew a registration, the applicant shall be deemed to continue to be registered until an order is made by the Tribunal or until the time for requiring a hearing by the Tribunal expires, whichever occurs first.

Stay of  
refusal to  
renew

(3) The Tribunal shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Notice of  
hearing

(4) The notice of hearing shall contain,

Idem

- (a) a statement of the time and place of the hearing;
- (b) a statement of the statutory power under which the hearing is being held;
- (c) a reference to the rules of procedure applicable to the hearing;
- (d) a concise statement of the issues; and

- (e) a statement that, if a party who has been duly notified does not attend at the hearing, the Tribunal may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 11, s. 8.

## Parties

**9.**—(1) The Registrar, the applicant or registrant and any other person specified by the Tribunal are parties to the hearing.

## Failure to attend

(2) If a person who has been duly notified of a hearing does not attend, the Tribunal may proceed in his absence. 1968-69, c. 11, s. 9.

## Adjournment

**10.**—(1) A hearing may be adjourned from time to time by the Tribunal on reasonable grounds,

- (a) on its own motion; or
- (b) on the motion of any party to the hearing.

## Subpoenas

(2) The Tribunal may, in the prescribed form, command the attendance before it of any person as a witness.

## Oaths

- (3) The Tribunal may require any person,
- (a) to give evidence on oath at a hearing; and
  - (b) to produce such documents and things as the Tribunal requires.

Objection re  
self-incrimin-  
ation  
R.S.O. 1970,  
c. 151  
R.S.C. 1952,  
c. 307

(4) An applicant or registrant giving evidence under oath before the Tribunal shall be advised of his right to object to answer any question under section 9 of *The Evidence Act* and section 5 of the *Canada Evidence Act*.

## Idem

(5) The Tribunal may admit evidence not given under oath.

## Offences

- (6) Any person who, without lawful excuse,
- (a) on being duly summoned as a witness before the Tribunal, makes default in attending; or
  - (b) being in attendance as a witness before the Tribunal, refuses to take an oath legally required by the Tribunal to be taken, or to produce any document or thing in his power or control legally required by the Tribunal to be produced by him, or to answer any question to which the Tribunal may legally require an answer; or
  - (c) does any other thing that would, if the Tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence punishable under subsection 7.

(7) The Tribunal may certify an offence under subsection 6 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1968-69, c. 11, s. 10.

Enforce-  
ment

**11.** Any party may be represented before the Tribunal by counsel or agent. 1968-69, c. 11, s. 11.

Right of  
party to  
counsel

**12.—(1)** Any witness may be represented before the Tribunal by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.

Right of  
witness to  
counsel

(2) Where a hearing is *in camera*, a counsel or agent for a witness shall be excluded except when that witness is giving evidence. 1968-69, c. 11, s. 12.

Exclusion  
of counsel

**13.** At a hearing before the Tribunal, any party may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions. 1968-69, c. 11, s. 13.

Right of  
parties at  
hearing

**14.—(1)** All hearings shall be open to the public except where the Tribunal finds that,

Hearings  
to be open  
to public;  
exceptions

- (a) public security may be involved; or
- (b) intimate financial or personal circumstances of any person may be disclosed,

in which case the Tribunal shall hold the hearing as to any such matters *in camera*.

(2) Notwithstanding the exceptions mentioned in clauses *a* and *b* of subsection 1, the Tribunal may, if in its opinion the public interest so requires, proceed without regard to such exceptions. 1968-69, c. 11, s. 14.

Idem

**15.** Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Tribunal within a reasonable time after the matter in issue has been finally determined. 1968-69, c. 11, s. 15.

Release of  
exhibits

**16.—(1)** The Tribunal may consider in reaching its decision any facts and information that are within its knowledge and that have not been introduced in evidence.

Specialized  
knowledge

(2) The Tribunal shall notify all parties to a proceeding of any facts or information referred to in subsection 1 and shall, before reaching its decision, give the parties an opportunity to contest before it any such facts or information.

Notice

Contents  
and service  
of notice

(3) The Tribunal shall cause a notice containing a statement of such facts or information to be served upon all the parties. 1968-69, c. 11, s. 16.

Record

**17.** All oral evidence received by the Tribunal shall be taken down in writing and together with,

- (a) the notice of hearing;
- (b) any rulings or orders made in the course of the proceedings of the Tribunal;
- (c) any written submissions received by the Tribunal; and
- (d) the decision and the reasons therefor,

form the record. 1968-69, c. 11, s. 17.

Decision of  
Tribunal

**18.—**(1) The Tribunal may, after the hearing,

- (a) where the hearing is an appeal from a decision of the Registrar, by order confirm or alter the decision of the Registrar or direct the Registrar to do any act the Registrar is authorized to do under this Act and as the Tribunal considers proper and for this purpose the Tribunal may substitute its opinion for that of the Registrar;
- (b) where the hearing is an application for suspension or revocation of a registration, dismiss the application or order that the registration be suspended or revoked,

and the Tribunal may attach such terms and conditions to its order or to the registration as it considers appropriate.

Decision  
to be in  
writing

(2) The final decision of the Tribunal, including the reasons therefor, shall be in writing.

Contents of  
reasons for  
decision

- (3) The reasons for the final decision shall contain,
  - (a) the findings of fact on the evidence and any information or knowledge used in reaching the decision;
  - (b) any agreed findings of fact; and
  - (c) the conclusions of law based on the findings mentioned in clauses *a* and *b*.

Notice of  
decision

(4) The Tribunal shall cause to be served on the parties a copy of its final decision, including the reasons therefor, and a notice stating the rights of appeal. 1968-69, c. 11, s. 18.

Enforce-  
ment of  
decisions

**19.** A certified copy of the final decision of the Tribunal, exclusive of the reasons therefor, may be filed in the office of the Registrar of the Supreme Court whereupon it shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1968-69, c. 11, s. 19.



**20.**—(1) Any party to the hearing before the Tribunal may appeal from the decision of the Tribunal to the Court of Appeal, and the practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court. Appeal to Court of Appeal

(2) The Minister may designate counsel to assist the court upon the hearing of an appeal under this section. Counsel

(3) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Tribunal or direct the Registrar or the Tribunal to do any act the Registrar or the Tribunal is authorized to do under this Act and as the court considers proper, and the court may substitute its opinion for that of the Registrar and the Tribunal and may exercise the same powers as it exercises on an appeal from a judge of the High Court sitting without a jury. 1968-69, c. 11, s. 20. Decision of court

**21.** An order of the Tribunal refusing to renew or suspending or revoking a registration shall take effect immediately, but the Tribunal may grant a stay until the order becomes final. 1968-69, c. 11, s. 21. Stay

**22.** A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. 1968-69, c. 11, s. 22. Further applications

**23.**—(1) Where the Registrar receives a complaint in respect of a collection agency and so requests in writing, the collection agency shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires. Investigation of complaints

(2) The request under subsection 1 shall indicate the nature of the inquiry involved. Idem

(3) For the purposes of subsection 1, the Registrar or any person designated in writing by him may at any reasonable time enter upon the business premises of the collection agency to make an inspection in relation to the complaint. 1968-69, c. 11, s. 23. Idem

**24.**—(1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of the registrant to make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of trust accounts are being complied with. Inspection

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a collection agency while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 4. 1968-69, c. 11, s. 24. Idem



Powers on  
inspection

**25.**—(1) Upon an inspection under section 23 or 24, the person inspecting,

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person being inspected; and
- (b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibil-  
ity of copies

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. 1968-69, c. 11, s. 25.

Investiga-  
tions

**26.**—(1) Where, upon a statement made under oath, it appears probable to the Director that any person has,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for registration under this Act,

1953-54,  
c. 51 (Can.)

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulations or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

Investiga-  
tion by  
order of  
Minister

(2) Notwithstanding subsection 1, the Minister may by order appoint one or more persons to make an investigation into any matter to which this Act applies and the person appointed shall report the result of his investigation to the Minister.

Scope of  
investiga-  
tion

(3) For the purpose of any investigation ordered under this section, any person appointed to make the investigation may at any reasonable time enter upon the business premises and may investigate, inquire into and examine the affairs of the person in respect of whom the investigation is being made and into any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and

payments to, by, on behalf of or in relation to or in connection with such person and into any property, assets or things owned, acquired or alienated in whole or in part by such person or by any person acting on behalf of or as agent for such person, and no person shall withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the investigation.

(4) Any person making an investigation under this section may, upon giving a receipt therefor, remove any document or record relating to the person whose affairs are being investigated and that relate to the subject-matter of the investigation, for the purpose of making a copy of such document or record, provided that such copying is carried out with reasonable dispatch and the document or record in question is promptly thereafter returned to the person whose affairs are being investigated. Removal of records

(5) Any copy made as provided in subsection 4 and purporting to be certified by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original document or record. Admissibility of copies

(6) The Minister or Director may appoint any expert to examine documents, records, properties and matters of any person whose affairs are being investigated under this Act. Appointment of experts

(7) The investigator may, in the prescribed form, command the attendance before him of any person as a witness and subsections 2 to 6 of section 10 and section 12 apply to the investigator and the witness in the same manner as to the Tribunal and witnesses before it. Evidence by witness

(8) No person, without the consent of the Minister, shall disclose, except to his counsel, any information or evidence obtained in the course of an investigation made under this section or the name of any witness examined or sought to be examined in such investigation. 1968-69, c. 11, s. 26. Confidentiality

**27.** Where, upon the report of an investigation made under subsection 1 of section 26, it appears to the Director that a person may have, Report

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for registration under this Act, 1953-54, c. 51 (Can.)

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister. 1968-69, c. 11, s. 27.

Order to  
refrain from  
dealing with  
assets

**28.—(1)** The Director may,

- (a) after an investigation of any person has been ordered under section 26; or
- (b) where criminal proceedings or proceedings in respect of a contravention of any Act or regulation are about to be or have been instituted against a person that in the opinion of the Director are connected with or arise out of the business in respect of which such person is registered or required to be registered,

in writing or by telegram, direct any person having on deposit or under control or for safe-keeping any assets or trust funds of the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets or trust funds from any other person having any of them on deposit, under control or for safe-keeping or to hold such assets or trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes such direction or consents to release any particular asset or trust fund from the direction, but, in the case of a bank or loan or trust company, the direction only applies to the offices, branches or agencies thereof named in the direction.

R.S.C. 1952,  
cc. 14, 296  
R.S.O. 1970,  
cc. 228, 89, 53

Bond in lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

R.S.O. 1970,  
c. 196

in such form, terms and amount as the Director determines.

Applica-  
tion for  
direction

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Notice to  
registrar of  
deeds, etc.

(4) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Director may in writing or by telegram notify any registrar of deeds or master of titles that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be

registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice. 1968-69, c. 11, s. 28.

**29.**—(1) Every collection agency shall, within five days after the event, notify the Registrar in writing of, Notice of changes

- (a) any change in its address for service;
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership;
- (c) any commencement or termination of employment of a collector.

(2) Every collector shall, within five days after the event, notify the Registrar in writing of, Idem

- (a) any change in his address for service; and
- (b) any commencement or termination of his employment.

(3) The Registrar shall be deemed to be notified under subsections 1 and 2 on the date on which he is actually notified or, where the notification is by mail, on the date of mailing. 1968-69, c. 11, s. 29. Idem

**30.**—(1) The Registrar may at any time require a collection agency to provide him with copies of any letters, forms, form letters, notices, pamphlets, brochures, advertisements, contracts, agreements or other materials used or proposed to be used by the collection agency in the course of conducting its business. Furnishing material to Registrar

(2) The Registrar may alter, amend, restrict or prohibit the use of any of the materials referred to in subsection 1, that in his opinion are harsh, false, misleading or deceptive, and sections 8 to 20 apply to the decision of the Registrar and the decision shall take effect immediately, but the Tribunal may grant a stay until the Registrar's decision becomes final. Alteration of material

(3) Every collection agency shall, when required by the Registrar with the approval of the Director, file a financial statement showing the matters specified by the Registrar and signed by the proprietor or officer of the collection agency and certified by a person licensed under *The Public Accountancy Act*. Financial statements  
R.S.O. 1970, c. 373

(4) The information contained in a financial statement filed under subsection 3 is confidential and no person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. 1968-69, c. 11, s. 30. Statement confidential



Practices  
prohibited

**31.** No collection agency or collector shall,

- (a) collect or attempt to collect for a person for whom it acts any moneys in addition to the amount owing by the debtor;
- (b) send any telegram or make any telephone call, for which the charges are payable by the addressee or the person to whom the call is made, to a debtor for the purpose of demanding payment of a debt;
- (c) receive or make an agreement for the additional payment of any money by a debtor of a creditor for whom the collection agency acts, either on its own account or for the creditor and whether as a charge, cost, expense or otherwise, in consideration for any forbearance, favour, indulgence, intercession or other conduct by the collection agency;
- (d) deal with a debtor in a name other than that authorized by the registration. 1968-69, c. 11, s. 31.

Notice as  
to moneys  
collected

**32.** Every collector shall immediately notify his employer when any moneys are collected by him in the course of his employment. 1968-69, c. 11, s. 32.

Use of un-  
registered  
collection  
agency

**33.**—(1) No person shall knowingly engage or use the services of a collection agency that is not registered under this Act.

Employ-  
ment of un-  
registered  
collectors

(2) No collection agency shall employ a collector or appoint or authorize a collector to act on its behalf unless the collector is registered under this Act. 1968-69, c. 11, s. 33.

False  
advertising

**34.** Where, in the opinion of the Registrar, a collection agency is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and sections 8 to 20 apply to the order and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1968-69, c. 11, s. 34.

Service

**35.**—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Department.



(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing. Idem

(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal. 1968-69, c. 11, s. 35. Exception

**36.**—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit. Restraining orders

(2) An appeal lies to the Court of Appeal from an order made under subsection 1. 1968-69, c. 11, s. 36. Appeal

**37.**—(1) Every person who, knowingly, Offences

(a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(b) fails to comply with any order, direction or other requirement made under this Act; or

(c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporations

(3) No proceeding under this section shall be instituted except with the consent of the Minister. Consent of Minister

(4) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director. Limitation

(5) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose. 1968-69, c. 11, s. 37. Idem

Certificate  
as evidence

**38.** A statement as to,

- (a) The registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or
- (d) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, document or material,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1968-69, c. 11, s. 38.

Regulations

**39.** The Lieutenant Governor in Council may make regulations,

- (a) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (b) requiring the payment of fees on application for registration or renewal of registration and prescribing the amount thereof;
- (c) prescribing forms for the purposes of this Act and providing for their use;
- (d) requiring and governing the maintenance of trust accounts by collection agencies and prescribing the moneys that shall be held in trust and the terms and conditions thereof;
- (e) requiring and governing the books, accounts and records that shall be kept by collection agencies and requiring the accounting and remission of moneys to creditors in such manner and times as are prescribed, including the disposition of unclaimed money;
- (f) requiring collection agencies or any class thereof to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;
- (g) requiring collection agencies to make returns and furnish information to the Registrar;
- (h) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

- (*i*) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
  - (*j*) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof;
  - (*k*) prohibiting the use of any particular method in the collection of debts. 1968-69, c. 11, s. 39.
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## CHAPTER 72

## The Commissioners for taking Affidavits Act

**1.** In this Act, a “county” includes a provisional county and a provisional judicial district. R.S.O. 1960, c. 59, s. 1. Interpretation

**2.—(1)** Every member of the Assembly is *ex officio* commissioner for taking affidavits in Ontario. R.S.O. 1960, c. 59, s. 2 (1). Members of Assembly

(2) Every person who is entitled to practise law in Ontario as a barrister and solicitor is *ex officio* a commissioner for taking affidavits in Ontario. R.S.O. 1960, c. 59, s. 2 (2), *amended*. Barristers and solicitors

(3) The clerk, deputy clerk and treasurer of every municipality are *ex officio* commissioners for taking affidavits, Municipal clerks and treasurers

(a) in the case of a county, in the county; or

(b) in the case of a municipality other than a county, in the county in which the municipality is situate.

(4) In every local municipality having a population of 100,000 or more, the administrative head of any department responsible for building standards, welfare, assessment or planning and his deputy and the medical officer of health are *ex officio* commissioners for taking affidavits in the county in which the municipality is situate for the purposes of the affairs of the municipality. 1964, c. 8, s. 1. Heads of departments, etc.

(5) The head of every municipal council, the reeve of every town, every deputy reeve, and every controller and alderman of a municipality are and shall be deemed always to have been *ex officio* commissioners for taking affidavits in the county, district or regional municipality in which the municipality is situate. Heads of municipal councils, etc.

(6) The chairman, vice-chairman and secretary-treasurer of every improvement district are, and shall be deemed always to have been, *ex officio* commissioners for taking affidavits in the county or district in which the improvement district is situate. 1968-69, c. 12, s. 1 (2), s. 4, *part, amended*. Improvement districts

**3.** The judges and clerks of the county and district courts may take affidavits required to be taken in their respective courts. R.S.O. 1960, c. 59, s. 3. County and district courts



Commissioners for specific purposes

**4.** The Lieutenant Governor may confer upon such officers and employees of the Income Tax Division, the Department of National Revenue (Canada) or any department of the Government of Ontario as he designates full power to administer oaths and take affidavits in connection with the performance of their official duties, but limited as the Lieutenant Governor may determine. R.S.O. 1960, c. 59, s. 5.

Appointment of commissioners

**5.—(1)** The Lieutenant Governor may by commission empower any person of the age of twenty-one years or over to administer oaths and take affidavits authorized by law within or outside Ontario or subject to such limits as to duration, territory or purpose as the Lieutenant Governor may specify in the appointment. 1968-69, c. 12, s. 3.

Appointment of officials of corporations

(2) Upon application therefor and payment of the prescribed fee,

R.S.O. 1970, c. 89

- (a) the secretary and treasurer of each corporation with share capital or incorporated under Part V of *The Corporations Act* that has its head office in Ontario; and
- (b) the principal officer in each branch office in Ontario of a corporation with share capital or incorporated under Part V of *The Corporations Act*,

may be appointed commissioners for taking affidavits in Ontario for the purposes of the affairs of the corporation. 1964, c. 8, s. 2 (1).

Period of appointment

(3) The appointment of every such person appointed within Ontario shall be for a period of three years, but any such appointment may from time to time be renewed for a period of three years.

Style of commissioners

(4) A commissioner so appointed shall be styled "A commissioner for taking affidavits in and for the courts in Ontario". R.S.O. 1960, c. 59, s. 6 (2, 3).

Limitations to be stated

**6.** Every commissioner whose commission is limited in its duration or as to territory or purpose shall indicate the limitation by means of a stamp approved by the Inspector of Legal Offices affixed under his signature. 1964, c. 8, s. 3.

Extent of commissioner's authority

**7.** Every commissioner may take any affidavit in anywise concerning any proceeding to be had in any court in Ontario or before a judge of any such court, and in or concerning any application or matter made or pending before any judge of any court in Ontario which by any statute such judge is authorized to hear and determine or in which he is authorized to make an order, although the application or matter be not made or depending in any court. R.S.O. 1960, c. 59, s. 7.

**8.** Every commissioner has power to take declarations in cases in which declarations may be taken or may be required under any Act in force in Ontario. R.S.O. 1960, c. 59, s. 8.

Commissioners may take declarations

**9.** The Lieutenant Governor may revoke the commission of any commissioner. R.S.O. 1960, c. 59, s. 9.

Revocation of commissions

**10.** Every oath and declaration shall be taken by the deponent in the presence of the commissioner, notary public, justice of the peace or other officer or person administering the oath or declaration who shall satisfy himself of the genuineness of the signature of the deponent or declarant and shall administer the oath or declaration in the manner required by law before he signs the jurat or declaration. R.S.O. 1960, c. 59, s. 10.

Duty of commissioner, etc., in administration of oath

**11.** Every commissioner, notary public, justice of the peace or other officer or person administering an oath or declaration who signs a jurat or declaration without the due administration of the oath or declaration is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. R.S.O. 1960, c. 59, s. 11.

Offence

**12.** Every one who in any action or proceeding or upon any application or other proceeding out of court, or for the purpose of making or maintaining any claim, files, registers or uses or in any other manner makes use of any oath, affidavit or declaration knowing that it was not taken, sworn to or made in conformity with section 10 is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500. R.S.O. 1960, c. 59, s. 12.

Idem

**13.** Upon his conviction for an offence against this Act, the commission or appointment of a commissioner for taking affidavits, notary public or justice of the peace may be cancelled or revoked by the constituting authority. R.S.O. 1960, c. 59, s. 13.

Forfeiture of commission or appointment

**14.** The Lieutenant Governor in Council may make regulations respecting the fees payable to the Crown and the fees receivable by commissioners under this Act. R.S.O. 1960, c. 59, s. 14.

Regulations



## CHAPTER 73

## The Community Centres Act

## 1. In this Act,

Interpre-  
tation

- (a) "community centre" means a community hall, athletic field, indoor or outdoor swimming pool, skating arena or outdoor skating rink;
- (b) "Minister" means the Minister of Agriculture and Food;
- (c) "regulations" means the regulations made under this Act. R.S.O. 1960, c. 60, s. 1, *amended*.

2.—(1) The Minister may grant aid to any municipality to assist in the establishment of a community centre, but no grant shall exceed the lesser of,

Grants

- (a) \$10,000 or 25 per cent of the cost of a building or that part of a building designed for a community hall or skating arena, or of the cost of an athletic field or outdoor skating rink; or
- (b) \$15,000 or 25 per cent of the cost of a building or that part of a building designed for an indoor swimming pool, or of the cost of an outdoor swimming pool. 1968, c. 14, s. 1 (1).

(2) Grants may be made to assist in the establishment by any municipality of more than one community centre. R.S.O. 1960, c. 60, s. 2 (2).

Idem

(3) Notwithstanding subsection 1, the Minister may make a grant not exceeding the lesser of,

Combined  
community  
hall and  
swimming  
pool or  
skating  
arena

- (a) \$20,000 or 25 per cent of the total cost of a building or that part of a building designed to include both a community hall and a skating arena; or
- (b) \$25,000 or 25 per cent of the total cost of a building or that part of a building designed to include both a community hall and an indoor swimming pool. 1968, c. 14, s. 1 (2).

(4) The grants are payable out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 60, s. 2 (4).

Provision  
for moneys

3. All property acquired for the purposes of this Act shall, except as hereinafter provided, be vested in the municipality. R.S.O. 1960, c. 60, s. 3.

Property  
vested in  
corporation

By-laws for  
establish-  
ment of  
community  
centres

**4.—(1)** The council of any municipality may by by-law provide for the establishment of one or more community centres in accordance with this Act, and may acquire by purchase or otherwise real and personal property for that purpose. 1968, c. 14, s. 2.

By-law for  
acquiring  
land in  
another  
municipality

(2) The by-law may provide for acquiring land and establishing a community centre in an adjacent or contiguous municipality, but real property so acquired or held in an adjacent or contiguous municipality is not exempt from taxation by the municipality in which it is situate unless the council of the last-mentioned municipality by by-law declares that it is exempt.

Exempting  
such lands  
from  
taxation

(3) The council of a municipality in which a community centre is established by the council of another municipality may grant such total or partial exemption from taxation as the council considers proper and may enter into an agreement with the municipality establishing the community centre for granting such exemption.

Debentures

R.S.O. 1970,  
c. 284

(4) A municipality may issue debentures for the purposes of subsection 1 in the manner provided by *The Municipal Act*. R.S.O. 1960, c. 60, s. 4 (2-4).

Agreements  
for joint  
use of  
community  
centres

**5.—(1)** In the establishment of a community centre under this Act, the council of the municipality that passes the by-law may enter into an agreement with the council or councils of any other municipality or municipalities for the joint use of the community centre by the inhabitants of the municipalities upon such terms as may be agreed respecting contributions to the cost of the community centre and the maintenance thereof.

Grants

(2) Notwithstanding section 2, where an agreement for the joint use of a community centre is entered into under subsection 1, the Minister may make to each municipality a grant not exceeding the amount that may be paid under section 2 to a municipality that passes a by-law, but the total aid granted under this subsection in respect of any one community centre shall not exceed 50 per cent of the cost thereof. 1968, c. 14, s. 3.

Interpre-  
tation

**6.—(1)** In this section, "ratepayers" means persons assessed and liable to taxation for general municipal purposes.

Community  
centre for  
school  
sections

(2) Upon a petition being presented to the council of a township, signed by more than one-half the number of ratepayers in a former school section or by more than one-half the number of ratepayers in each of two or more former school sections or parts thereof in the township, praying that the council pass a by-law for the establishment of a community centre for such former school section or sections or parts, the council may pass a by-law for the establishment of such community centre in any former school section or in any village adjacent or contiguous thereto.



(3) The moneys required for the establishment of a community centre under this section may be raised by the issue of debentures of the township in the manner provided by *The Municipal Act*, but it is not necessary to procure the assent of the ratepayers for the passing of a by-law for the issue of such debentures, and all moneys required to provide for principal and interest on the debentures issued under this section or for any other purpose in connection with the establishment of a community centre for a former school section shall be raised by special rate upon all property subject to municipal taxation in the former school section or sections or parts.

Issue of  
debentures  
R.S.O. 1970,  
c. 284

(4) Notwithstanding subsection 3, where there are profits from the operations of a community centre, the board of management may apply the profits or part of the profits to the principal and interest on any debentures issued under this section.

Use of  
profits to  
pay off  
debentures

(5) Where debentures are issued under this section, such debentures constitute a debt of the corporation of the township to the holder of the debentures, and the property liable to assessment and taxation in the former school section or sections or parts is liable to the township as a whole for any amounts paid by the township on account of the debentures or interest thereon.

Debentures  
to be a debt  
of township

(6) Where a township council has passed a by-law for establishing a community centre for a former school section, the township council by by-law, upon request of the board of school trustees, may vest the property in the board which thereupon has power to hold the property and shall perform the functions of the board of management as set forth in section 7. R.S.O. 1960, c. 60, s. 5 (1-6), *amended*.

Property  
may be  
vested in  
board of  
school  
trustees

(7) The clerk of the municipality shall, forthwith after the passing of the by-law imposing the special rate to pay the cost of the establishment of a community centre, deliver or transmit by registered mail to the clerk of every municipality in which is situate any land upon which a special rate has been imposed a certified copy of the by-law.

Transmis-  
sion of  
copy of  
by-law

(8) The rates required by the by-law to be levied and collected in any year upon land in a municipality, other than that by whose council the by-law is passed, shall be collected by the council of such municipality in like manner as if the rates had been imposed by that council.

Collection  
of rates  
in union  
sections

(9) The municipality, other than that by whose council the by-law is passed, shall pay to the last-mentioned municipality the sums that are to be levied and collected in that year under subsection 8, and such payments shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them.

Payment of  
share by  
other  
muni-  
cipalities

Lands to  
remain  
liable

(10) Such payments shall not relieve any lands specially assessed from the special rate thereon, and such lands remain liable for the special rate until it is paid.

Township  
school areas

(11) Where a township school area has been established, this section applies *mutatis mutandis* to the area or any part thereof. R.S.O. 1960, c. 60, s. 5 (7-12).

Composition  
of board

**7.**—(1) Every community centre established by a municipality under this Act shall be under the management and control of a board appointed by the council of the municipality and composed of not fewer than three persons who are qualified to be elected as members of the council and, where the board is composed of five or more persons, at least two shall be members of the council. R.S.O. 1960, c. 60, s. 6 (1); 1968, c. 14, s. 4 (1).

Joint board

(2) The council may appoint one board in the manner provided in subsection 1 to manage and control any or all community centres established by the municipality.

Appoint-  
ments

(3) The members of the board shall be appointed annually by the council. R.S.O. 1960, c. 60, s. 6 (2, 3).

Appointment  
to board of  
persons not  
qualified to  
be elected  
to council

(4) Notwithstanding subsection 1, where in the establishment of a community centre under this Act,

(a) aid in respect of the erection and maintenance thereof was granted by persons, societies or other bodies or municipalities not within the municipality that passed the by-law; or

(b) contributions to the cost thereof were made under an agreement for the joint use of the community centre,

the council of the municipality that passed the by-law may appoint as members of the board persons who are not qualified to be elected as members of the council, but the persons appointed to represent a municipality contributing to the cost of the community centre under an agreement for the joint use thereof shall be persons who are qualified to be elected as members of the council of the contributing municipality. 1962-63, c. 17, s. 1; 1968, c. 14, s. 4 (2).

Quorum

(5) A majority of the members of the board shall be a quorum.

Board may  
make rules  
and fix  
charges

(6) The board of a community centre may make such rules as it considers necessary relating to the management and control thereof and may fix such charges for the use of the community centre as it considers advisable. R.S.O. 1960, c. 60, s. 6 (4, 5).

Power of  
board to let  
the right  
to sell re-  
freshments

(7) The board of a community centre has power to let from year to year, or for any time not exceeding ten years, the right to sell refreshments within the community centre on such terms and conditions as the board shall prescribe. 1968, c. 14, s. 4 (3).

**8.** Any municipality entering into an agreement for the joint use of a community centre, and any of the societies or other bodies by which a community centre may be used under the regulations, may make grants out of any moneys in their hands in aid of the erection and maintenance of a community centre established under this Act. R.S.O. 1960, c. 60, s. 7.

Grants in aid

**9.—(1)** The Minister may make grants to a board as defined in *The Schools Administration Act* to provide for an athletic field, an outdoor swimming pool or an outdoor skating rink and, in the case of a board having jurisdiction only in territory without municipal organization, to provide in addition for a community hall, on the same terms as set forth in this Act, except that such fields, pools, rinks and community halls shall be managed and conducted by the board, and such property shall be vested in the board, provided always that such fields, pools, rinks and community halls shall be available for the uses prescribed by the regulations.

Grants to school boards  
R.S.O. 1970, c. 424

(2) In the establishment of a community centre of a kind referred to in subsection 1, a board, as defined in *The Schools Administration Act* and having jurisdiction only in territory without municipal organization, may enter into an agreement with the council or councils of any municipality or with a like board for the joint use of the community centre, upon such terms as may be agreed respecting contribution to the cost of the community centre and the maintenance thereof, and the Minister may make grants to the board in the same manner as grants may be made to a municipality under subsection 2 of section 5. 1968, c. 14, s. 5.

Idem

**10.—(1)** In this section, “council of a band” and “reserve” have the same meanings as in the *Indian Act* (Canada).

Interpretation  
R.S.C. 1952, c. 149

(2) The Minister may make grants to the council of a band to provide for the establishment of a community centre on its reserve on such terms and conditions as the Minister may determine. 1962-63, c. 17, s. 2.

Grants to councils of Indian bands

**11.** Where aid has been granted under this Act to assist in building a community centre out of moneys appropriated by the Legislature, the community centre shall not be sold or disposed of within twenty years from the time the aid was last granted without the approval of the Minister. R.S.O. 1960, c. 60, s. 9.

Disposal of community centres

**12.** The Lieutenant Governor in Council may make regulations,

Regulations

(a) prescribing the terms and conditions upon which aid may be granted under this Act;

- (b) prescribing the uses to which a community centre may be put and the accommodation that may be provided therein;
  - (c) prescribing the powers and duties of boards of management and providing for the appointment of officers of such boards;
  - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 60, s. 10.
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CHAPTER 74

The Community Psychiatric Hospitals  
Act

1. In this Act,

Interpre-  
tation

- (a) “hospital” means a community psychiatric hospital established or approved under section 3;
- (b) “Minister” means the Minister of Health;
- (c) “patient” means a person received and lodged in a hospital for the purpose of treatment;
- (d) “provincial aid” means aid granted to a hospital out of moneys appropriated for the purpose by the Legislature;
- (e) “regulations” means the regulations made under this Act;
- (f) “treatment” means the maintenance, observation, nursing, medical and other care of a patient. 1960-61, c. 9, s. 1, *amended*.

2. The Minister is responsible for the administration of this Act. 1960-61, c. 9, s. 2.

Administra-  
tion of Act

3. The Lieutenant Governor in Council may establish one or more hospitals for the care and treatment of persons suffering from emotional or psychiatric disorders as community psychiatric hospitals and he may approve all or any part of any institution, building or other premises or place as such a community psychiatric hospital. 1960-61, c. 9, s. 3, *amended*.

Establish-  
ment and  
approval of  
hospital  
of community  
psychiatric  
hospitals

4.—(1) Where the Lieutenant Governor in Council establishes a hospital under this Act, he shall designate the name by which the hospital is to be known and he shall appoint a board of governors composed of not fewer than eight members, including members *ex officio*, to maintain and operate the hospital. 1960-61, c. 9, s. 4 (1).

Name and  
board of  
hospital  
established  
under  
this Act

(2) Every board of a hospital is a corporation.

Corporate  
status

(3) Vacancies in the board of a hospital may be filled from time to time by the Lieutenant Governor in Council.

Vacancies



Officers  
and staff

(4) The board of a hospital may employ a director and such other officers and staff as are from time to time required for its purposes, and may pay the director, other officers and staff such remuneration as it considers proper out of its funds.

By-laws

(5) Subject to the approval of the Lieutenant Governor in Council, the board of a hospital may make such by-laws, rules and regulations as it considers expedient for the administration of its affairs.

Agreements

(6) Subject to the approval of the Lieutenant Governor in Council, the board of a hospital may make agreements with universities, medical associations, hospitals and persons for the purpose of carrying out its objects.

Funds

(7) The funds of the board of a hospital consist of moneys received by it from any source and it may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it considers proper.

Audit

(8) The accounts of the board of a hospital shall be audited annually by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the board.

Annual  
report

(9) The board of a hospital shall, after the close of each fiscal year, make a report upon its affairs during the preceding year to the Minister and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by it during the preceding year. 1960-61, c. 9, s. 4 (2-9), *amended*.

General  
powers  
continued

**5.** Every hospital has power to carry on its undertaking as authorized by any general or special Act, but, where the provisions of any general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. 1960-61, c. 9, s. 5, *amended*.

Application  
of  
R.S.O. 1970,  
c. 378

**6.** The Lieutenant Governor in Council may designate any provision of *The Public Hospitals Act* or of the regulations thereunder as being applicable to any hospital under this Act. 1960-61, c. 9, s. 6.

No  
taxation

**7.** The real and personal property, business and income of a hospital are not subject to assessment or taxation for municipal or provincial purposes. 1960-61, c. 9, s. 8, *amended*.

Provincial  
aid

**8.** The Minister may pay hospitals provincial aid in such manner, in such amounts and under such conditions as are prescribed by the regulations. 1960-61, c. 9, s. 9, *amended*.

**9.** The Lieutenant Governor in Council may make regulations Regulations  
with respect to hospitals for,

- (a) their construction, alteration, equipment, safety, maintenance and repair;
  - (b) their inspection, control, government, management, conduct, operation and use;
  - (c) their superintendents, other officers and staffs and the powers and duties thereof;
  - (d) their classifications, grades and standards, and the classification of patients, and the length of stay of and the rates and charges for patients;
  - (e) the admission, treatment, care, conduct, control, custody and discharge of patients or any class of patients;
  - (f) prescribing the classes of grants by way of provincial aid to hospitals and the methods of determining the amounts of grants and providing for the manner and times of payment and the suspension and withholding of grants and for the making of deductions from grants;
  - (g) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1960-61, c. 9, s. 10, *amended*.
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## CHAPTER 75

## The Commuter Services Act

**1.** In this Act, “Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council. 1965, c. 17, s. 1.

Interpretation

**2.—**(1) The Minister is responsible for the administration of this Act.

Administration of Act

(2) The Minister may delegate any of his powers under this Act to any one or more Crown employees as defined in *The Public Service Act*. 1965, c. 17, s. 2.

Delegation  
R.S.O. 1970,  
c. 386

**3.—**(1) Her Majesty the Queen in right of the Province of Ontario, represented by the Minister, may,

Establishment and operation of commuter services

(a) establish and operate; and

(b) with the approval of the Lieutenant Governor in Council, enter into agreements with Canadian National Railways and any other corporation or individual, or any one or more of them, with respect to any matter or thing having as its object the establishment and operation, or either of them, of,

commuter services to serve any one or more areas in Ontario. 1970, c. 109, s. 1.

(2) Any municipality, including any metropolitan municipality, is a corporation for the purpose of subsection 1, and is hereby authorized and empowered to enter into agreements thereunder. 1965, c. 17, s. 3 (2).

Idem, municipalities

**4.—**(1) The Minister may,

Acquisition of property

(a) acquire by purchase, lease or otherwise any rolling stock, equipment, apparatus or thing; and

(b) acquire by purchase, lease or otherwise or expropriate any land or any interest in land,

that may be required for the establishment and operation, or either of them, of any commuter service that is or is to be provided under section 3. 1965, c. 17, s. 4 (1); 1966, c. 19, s. 1 (1); 1970, c. 109, s. 2.

Disposition  
of property

(2) The Minister may sell, lease or otherwise dispose of any rolling stock, equipment, apparatus or thing or any land or any interest in land no longer required for the purposes of this Act. 1966, c. 19, s. 1 (2).

Regulations

**5.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) prohibiting or regulating the use of any land or any interest in land acquired under subsection 1 of section 4 and prohibiting or regulating vehicular traffic and pedestrian traffic on any such land or interest in land;
- (b) requiring and providing for the issue of permits and licences and providing for the granting of rights in respect of the use of any such land or interest in land, and providing for the revocation of any such permit, licence or right;
- (c) prescribing the fees or rentals payable for any permit, licence or right issued or granted in respect of any such land or interest in land;
- (d) prescribing fares that shall be charged and collected for any service;
- (e) governing the terms and conditions upon which tickets may be sold;
- (f) governing the conduct of passengers and for refusing passage to persons who do not comply with the regulations or the terms and conditions upon which tickets are sold;
- (g) imposing fines of not more than \$100, exclusive of costs, upon every person who contravenes any provision of a regulation made under this section;
- (h) providing a procedure for the voluntary payment of fines out of court in cases where it is alleged that the parking provisions of a regulation made under this section have been contravened, and, if payment is not made in accordance with the procedure, subsection 2 applies. 1967, c. 10, s. 1, *part*; 1970, c. 109, s. 3.

Penalty

(2) Every person who contravenes any provision of a regulation made under subsection 1 is guilty of an offence, and the fines imposed by a regulation made under subsection 1 are recoverable under *The Summary Convictions Act* and are payable to the Treasurer of Ontario.

R.S.O. 1970,  
c. 450

Motor  
vehicle  
owner and  
driver  
liable to  
penalties

(3) The owner of a motor vehicle shall incur the fines imposed for any contravention of a regulation made under subsection 1 prohibiting or regulating the parking of motor vehicles unless at the time of the contravention the motor vehicle was in the



possession of some person other than the owner or his chauffeur without the owner's consent, and the driver of the motor vehicle not being the owner shall also incur the fines imposed for any such contravention.

(4) The Minister may appoint one or more Crown employees as an officer or officers for the purposes of carrying out all or any of the provisions of the regulations made under subsection 1, and any person so appointed is a constable for such purpose and for the purposes of section 14 and 17 of *The Highway Traffic Act*.

Appointment of officers to carry out regulations

R.S.O. 1970, c. 202

(5) A person appointed under subsection 4 shall, while carrying out his duties under the appointment, have in his possession a certificate of his appointment under subsection 4 and shall produce such certificate upon request. 1967, c. 10, s. 1, *part*.

Certificate of appointment

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## CHAPTER 76

## The Conditional Sales Act

## 1. In this Act,

Interpre-  
tation

- (a) "contract" means a conditional sale contract and includes a hire receipt;
- (b) "goods" includes wares and merchandise;
- (c) "prescribed form" means a form provided or approved under this Act by the registrar;
- (d) "purchaser" includes a proposed purchaser and a hirer;
- (e) "registrar" means the registrar of personal property security appointed under *The Personal Property Security Act*; R.S.O. 1970,  
c. 344
- (f) "sale" includes a hiring;
- (g) "seller" includes a lender for hire;
- (h) "sold" includes lent for hire. R.S.O. 1960, c. 61, s. 1;  
1970, c. 81, s. 1 (1).

2.—(1) Where possession of goods is delivered to a purchaser of them under a contract which provides that the ownership is to remain in the seller until payment of the consideration money or part of it, as against a subsequent purchaser or mortgagee claiming from or under the purchaser, without notice, in good faith and for valuable consideration, such provision is invalid and the purchaser shall be deemed to be the owner of the goods, unless

Invalidity of  
conditional  
sale accom-  
panied by  
delivery  
against  
subsequent  
purchaser or  
mortgagee  
unless

- (a) in the case of registration on or after the 1st day of January, 1968, the contract is evidenced by a writing signed by the purchaser or his agent and containing and legibly setting forth at least,
  - (i) the name and address of the purchaser,
  - (ii) the name and address of the seller and of his assignee, if any,
  - (iii) the date of execution of the contract,
  - (iv) a description of the goods sold sufficient to identify them, and
  - (v) the terms and conditions of the contract; and
- (b) within ten days after the execution of the contract a true copy of it is registered in the office of the clerk of the county or district court of the county or district in which the purchaser resided at the time of the sale and the

the contract  
is in writingand a copy  
is registered

renewal statement, if any, is registered as provided in section 5. R.S.O. 1960, c. 61, s. 2 (1); 1967, c. 11, s. 1; 1970, c. 81, s. 2 (1, 2).

Hire  
receipts

(2) Subsection 1 applies to the case of a hire receipt where the hirer is given an option to purchase.

Goods  
delivered  
for the  
purpose  
of resale

(3) Where the delivery is made to a person for the purpose of resale by him in the course of business, such provision is also, as against his creditors, invalid and he shall be deemed to be the owner of the goods unless this Act has been complied with.

Ownership  
on resale

(4) Where such person resells the goods in the ordinary course of his business, the property in and ownership of such goods passes to the purchaser notwithstanding that this Act has been complied with. R.S.O. 1960, c. 61, s. 2 (2-4).

Consumer,  
goods, etc.

(5) Clause *b* of subsection 1 does not apply to a contract that is executed on or after the 1st day of January, 1971,

(a) respecting goods that are used or acquired for use primarily for personal, family or household purposes where the amount secured by the contract does not exceed \$300; or

(b) respecting goods that are used or acquired for use other than for personal, family or household purposes and the goods are,

(i) manufactured goods, including pianos, organs and other musical instruments, that at the time possession is delivered have the name and address of the seller painted, printed, stamped or engraved thereon or plainly attached thereto, or

(ii) household furniture other than pianos, organs and other musical instruments. 1970, c. 81, s. 2 (4).

Error in  
name or  
description

(6) An error or inaccuracy in the name or address of the seller that does not mislead does not prevent the application of subsection 5.

Late

(7) Where a true copy of a contract is not duly registered within the time prescribed by clause *b* of subsection 1, the judge of the county or district court of the county or district in which the purchaser resided when the contract was made may permit it to be registered at a later date upon being satisfied by affidavit that the failure to register arose from misadventure, ignorance or some other cause which constitutes a reasonable excuse and that the parties have acted and are acting in good faith, but in such case the provision of the contract mentioned in subsection 1 shall be deemed to be effective as against creditors of and subsequent purchasers or mortgagees claiming from or under the purchaser, without notice, in good faith and for valuable consideration, only

from the actual date of registration, and, for the purpose of registering a renewal statement, such true copy shall be deemed to have been registered on the actual date of registration.

(8) The word "creditors" in subsection 7 means creditors of a purchaser to whom goods have been delivered for the purpose of resale by him in the course of business. R.S.O. 1960, c. 61, s. 2 (6-8). Interpretation

**3.**—(1) This Act does not apply to a contract for the sale of railway stock by an incorporated company to an incorporated company if the contract or a copy of it is filed in the office of the *Minister of Financial and Commercial Affairs* within ten days from its execution. R.S.O. 1960, c. 61, s. 3 (1); 1966, c. 20, s. 1, amended. Railway rolling stock

(2) A contract under subsection 1 may be discharged by filing in the office of the *Minister of Financial and Commercial Affairs* a certificate signed by the seller to the effect that all moneys due under it have been satisfied. R.S.O. 1960, c. 61, s. 3 (2), amended. Discharge

**4.** The seller shall deliver a copy of the contract to the purchaser within twenty days after the execution thereof, and if, after request, he neglects or refuses to do so the judge of the county or district court of the county or district in which the purchaser resided when the contract was made may, on summary application, make an order for the delivery of such copy. R.S.O. 1960, c. 61, s. 4. Copy of contract to be given to purchaser

**5.**—(1) Every contract of which a copy has been registered under this Act ceases to be valid as against the creditors of the purchaser and as against subsequent purchasers claiming from or under such purchaser, without notice, in good faith and for valuable consideration, at the expiration of three years from the day of the registration of such copy unless, within thirty days next preceding the expiration of three years from the day of the registration of such copy, a renewal statement in Form 5 has been registered in the same office in which the original copy of the contract was registered. 1970, c. 81, s. 3 (1). Renewal statement to be filed

(2) The renewal statement shall be signed by the seller or his assignee, personal representative or agent, and shall be verified by the affidavit in Form 6 of such seller, assignee, personal representative or agent having personal knowledge of the matters required to be verified, and the affidavit of such assignee, personal representative or agent shall state that he has such knowledge. Who to sign renewal statement

(3) Every contract in respect of which a renewal statement has been registered under this Act ceases to be valid as against the creditors of the purchaser and as against subsequent purchasers claiming from or under such purchaser, without notice, in good Validity of renewal statement



faith and for valuable consideration, at the expiration of three years from the day of the registration of such renewal statement unless, within thirty days next preceding the expiration of three years from the day of the registration of such renewal statement, a further renewal statement in like form has been registered in the same office.

Hire  
receipt

(4) This section applies to the case of a hire receipt where the hirer is given an option to purchase.

Court order  
may be  
obtained  
to permit  
later filing

(5) Where a renewal statement is not duly registered within the time prescribed by this section, the judge of the county or district court may permit it to be registered at a later date upon being satisfied by affidavit that the failure to register arose from misadventure, ignorance or some other cause which constitutes a reasonable excuse and that the parties have acted and are acting in good faith, but in such case the renewal statement shall, as against creditors of the purchaser and as against subsequent purchasers claiming from or under such purchaser, without notice, in good faith and for valuable consideration, who have become creditors, mortgagees or purchasers after the expiry of the contract but before registration, be deemed to have been executed and to be effective only from the date of registration, and, for the purposes of registration of any further statement of renewal, such statement of renewal shall be deemed to have been registered on the actual date of registration.

Interpre-  
tation

(6) The word “creditors” in this section means creditors of a purchaser to whom goods have been delivered for the purpose of resale by him in the course of business. R.S.O. 1960, c. 61, s. 5 (2-6).

Index  
book

**6.**—(1) The clerk of a county or district court shall make a record of every contract or renewal statement of which a copy is registered in his office under this Act in an index book to be kept for that purpose.

Fees

R.S.O. 1970,  
c. 344

(2) The clerk is entitled for services under this Act to the fees prescribed by the regulations made under *The Personal Property Security Act*. 1967, c. 11, s. 3.

Immaterial  
errors

**7.** An error of a clerical nature or in an immaterial or non-essential part of the copy of the contract or renewal statement or in the contents of a prescribed form that does not mislead does not invalidate the registration or destroy the effect of it. R.S.O. 1960, c. 61, s. 7; 1970, c. 81, s. 4.

Seller's  
duty to give  
particulars  
of claim

**8.**—(1) The seller shall, within five days after the receipt of a request in writing from the purchaser of any goods to which this Act applies, or from any other person interested, furnish particu-

lars of the amount remaining due to him and the terms of payment of it, and in default he is guilty of an offence and on summary conviction is liable to a fine of not more than \$50.

(2) If the request is by letter, the person making the request shall give a name and post office address to which a reply may be sent, and it is sufficient if the information is given by registered letter deposited in the post office within the prescribed time addressed to the person inquiring at his proper post office address, or, where the name and address are given by him, by the name and at the post office address so given. R.S.O. 1960, c. 61, s. 8.

How  
particulars  
to be given

**9.**—(1) Where the seller retakes possession of the goods for breach of condition, he shall retain them for twenty days, and the purchaser or his successor in interest may redeem the goods within that period on payment of the amount then in arrear, together with interest and the actual costs and expenses of taking and keeping possession.

Seller's  
duty after  
retaking

(2) Where the purchase price of the goods exceeds \$30 and the seller intends to look to the purchaser for any deficiency on a resale, the goods shall not be resold until after notice in writing of the intention to sell has been given to the purchaser or his successor in interest.

Seller's  
notice of  
intention  
to sell

(3) The notice shall contain,

What notice  
to contain

- (a) a brief description of the goods;
- (b) an itemized statement of the balance of the contract price due and the actual costs and expenses of taking and keeping possession up to the time of the notice;
- (c) a demand that the amount as stated in the notice shall be paid on or before a day mentioned, which day shall not be less than twenty days from the day of retaking possession of the goods;
- (d) a statement that, unless the amount stated in the notice is paid within the time mentioned, the goods will be sold either at private sale or advertised and sold by public auction, and that the seller intends to look to the purchaser for any deficiency occasioned by any resale.

(4) The notice shall be served personally upon or left at the residence or last known place of abode in Ontario of the purchaser or his successor in interest at least five days before the date set out in the notice for payment or may be sent by registered mail at least seven days before the date set out in the notice for payment addressed to the purchaser or his successor in interest at his last known post office address.

Service of  
notice

(5) The notice may be given during the twenty days mentioned in subsection 1.

Time for  
giving  
notice

Application  
of section

(6) This section applies notwithstanding an agreement to the contrary. R.S.O. 1960, c. 61, s. 9.

Goods  
affixed  
to realty  
subject to  
rights of  
seller

**10.**—(1) Subject to subsection 2 and section 14, where the goods, other than building material, have been affixed to realty, they remain subject to the rights of the seller as fully as they were before being so affixed, but the owner of the realty or any purchaser or any mortgagee or other encumbrancer thereof has the right, as against the seller or other person claiming through or under him, to retain the goods upon payment of the amount owing on them.

Mining  
machinery  
subject to  
rights of  
seller

(2) Where the goods consist of mining machinery or appliances on a mining claim for which the patent or lease, as the case may be, has not issued, they remain subject to the rights of the seller whether they have been affixed to the realty or otherwise as fully as they were before being so affixed, and the contract or a copy thereof may be registered with the recorder of the mining division in the same manner as a contract may be registered with the clerk of a county or district court, and the provisions of this Act with regard to registering a renewal statement and a discharge apply *mutatis mutandis*.

Registration  
to be notice  
of contract

(3) The registration of a contract as provided in subsection 2 shall be deemed to be actual notice to a creditor, subsequent purchaser or mortgagee of such goods or realty. R.S.O. 1960, c. 61, s. 10.

Right of  
landlord  
distraining  
to pay off  
vendor's lien

**11.** Where the goods are in or upon premises with respect to which rent is in arrears, the landlord or other person exercising the right of distress has the right to distrain the goods upon payment of the amount owing thereon to the seller or other person claiming through or under him, and the landlord may add the amount so paid to his claim for the rent. R.S.O. 1960, c. 61, s. 11.

Contract  
made out  
of Ontario  
and goods  
subsequently  
brought into  
Ontario

**12.** Where a contract has been made out of Ontario with reference to goods not then in Ontario which if made in Ontario with reference to goods in Ontario would come within this Act, or where under the law governing the contract the seller has the right of revendication or to resume possession of the goods notwithstanding the possession of the purchaser upon default in payment of the price or the insolvency of the purchaser, and the goods are brought into Ontario, the contract is subject to this Act, but the period for registering in the office of the clerk of the county or district court of the county or district in which the purchaser resided at the time of the sale is within twenty days after the date on which the goods are brought into Ontario, and a caution under oath stating the nature of the agreement and of the right claimed may be registered in lieu of a true copy of the contract. R.S.O. 1960, c. 61, s. 12.

**13.** A contract may be discharged by registering in the office of the clerk of the county or district court in which a copy of the contract was registered a certificate in Form 3 that all moneys due thereunder have been satisfied, or to the like effect, signed by the seller and verified by affidavit of a subscribing witness, and the clerk of the court shall, upon receiving the certificate, write the words "See discharge number (*stating the number of the certificate*)" opposite the place where the number of the contract has been entered in the index book kept for that purpose and he shall also endorse a similar memorandum upon the instrument discharged. R.S.O. 1960, c. 61, s. 13.

Discharge  
of contract

**14.—(1)** In addition to any other registration made under this Act, notice of a contract in Form 1 may be registered in the proper registry or land titles office, and shall set out,

Notice of  
contract may  
be registered  
in registry or  
land titles  
office

- (a) the name and residence of the seller and the purchaser;
- (b) a brief description of the goods sold;
- (c) the amount owing on the goods sold;
- (d) a description of the land upon which the goods are affixed or placed or are to be affixed or placed, sufficient for the purpose of registration, and, where the land is registered under *The Land Titles Act*, also a reference to the number of the parcel of the land and to the register in which the land is registered in the land titles office.

R.S.O. 1970,  
c. 234

(2) The notice shall be signed by the seller or his assignee, personal representative or agent, and shall be verified by the affidavit in Form 2 of the seller or his assignee, personal representative or agent having personal knowledge of the matters required to be verified, and the affidavit of the assignee, personal representative or agent shall state that he has such knowledge.

Form of  
notice and  
affidavit  
verifying

(3) The registration of a contract under this section shall be deemed to be actual notice to the owner of the land or an interest therein or to a subsequent purchaser, mortgagee or other encumbrancer of the land or an interest therein.

Registration  
to be notice  
to purchaser  
or mortgagee  
of land

(4) Where the goods have become affixed to the land or are fixtures and there is already registered against the land a mortgage or charge, all payments or advances made on the mortgage or charge after the goods have become affixed or have become fixtures and before registration of notice of the contract under this section have priority over the rights of the seller under the contract. R.S.O. 1960, c. 61, s. 14 (1-4).

Rights of  
mortgagee or  
chargee

(5) A notice of a contract registered under this section may be discharged by a certificate in Form 4 signed by the seller or his assignee, personal representative or agent, accompanied by an affidavit of execution, except that an affidavit of execution is not necessary where the discharge is executed under the seal of a corporation. R.S.O. 1960, c. 61, s. 14 (6).

Discharge



Affidavits,  
etc.,  
in case of a  
corporation

**15.**—(1) Where a seller or his assignee, personal representative or agent is a corporation, any officer, employee or agent of the corporation may make any verifying affidavit or sign any notice or renewal statement under this Act on behalf of the corporation.

Contents of  
affidavit by  
a corporation

(2) Where a verifying affidavit is made on behalf of a corporation, it shall state that the deponent has personal knowledge of the facts therein deposed to. R.S.O. 1960, c. 61, s. 15.

When  
instruments  
tendered for  
registration  
to be accom-  
panied by  
statement

**16.** Where required by the regulations made under this Act, a contract, or a renewal, assignment or discharge of a contract shall, when tendered for registration as provided by this Act, be accompanied by a statement that sets forth in the prescribed form the information prescribed by the regulations. 1970, c. 81, s. 5, *part*.

Regulations

**17.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional duties of the clerks of the county and district courts in connection with the registration of documents under this Act;
- (b) requiring or permitting a statement to accompany any instrument tendered for registration under this Act, prescribing the information to be contained in such statement and the manner of recording such information, and for requiring the forms of statements to be used shall be those provided or approved by the registrar;
- (c) defining any expression used in the regulations;
- (d) providing that clause *d* of section 27 of *The Interpretation Act* does not apply to a prescribed form;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1970, c. 81, s. 5, *part*.

R.S.O. 1970,  
c. 225

Repeal of Act  
by proclama-  
tion  
R.S.O. 1970,  
c. 344

**18.** This Act is repealed on a day to be named by the Lieutenant Governor by his proclamation and thereafter any reference in any Act or regulation to *The Conditional Sales Act* shall be deemed to be a reference to *The Personal Property Security Act*. 1967, c. 11, s. 4.



## FORM 1

## The Conditional Sales Act

(Section 14 (1))

## NOTICE OF CONDITIONAL SALE CONTRACT OR HIRE RECEIPT

I, ..... of the  
 ..... of .....  
 ..... (residence) ..... (seller, or as the case may be)  
 hereby give notice that .....  
 ..... (brief description of goods)  
 was sold under a conditional sale contract (or hire receipt) to .....  
 ..... (name of purchaser)  
 of the ..... of .....  
 ..... (residence)

The amount owing thereon is \$.....

The following is a description of the land upon which the goods are affixed or placed or are to be affixed or placed:

This notice is given for the purpose of registration in the registry (or land titles) office of .....

(city, county or district)

Dated this.....day of....., 19.....

(signature of seller, or as the case may be)

R.S.O. 1960, c. 61, Form 1.

## FORM 2

### *The Conditioned Sales Act*

(Section 14 (2) )

## AFFIDAVIT VERIFYING NOTICE

I, \_\_\_\_\_, named in the  
(name of seller, or as the case may be)  
above (or attached) notice, make oath and say:

1. That the facts set out in such notice are true.

(Where the affidavit is made by the assignee, personal representative or agent, or by an officer of a corporation, a clause to the following effect must be added:)

2. That I have full knowledge of the facts set forth in such notice.

Sworn, etc.

(signature of seller, or as the case may be)

R.S.O. 1960, c. 61, Form 2.

## FORM 3

*The Conditional Sales Act*

(Section 13)

## DISCHARGE

I certify that .....  
 has paid all money payable to me under a conditional sale agreement (or hire  
 receipt) dated the ..... day of .....  
 19....., signed by him and registered on the ..... day of  
 ....., 19....., as No. ....

(NOTE:—*The signature of the seller, or as the case may be, must be proved  
 by the affidavit of a subscribing witness.*)

.....  
*(signature of the seller, or as the case may be)*

.....  
*(witness)*

R.S.O. 1960, c. 61, Form 3.

## FORM 4

*The Conditional Sales Act*

(Section 14 (5) )

## CERTIFICATE OF DISCHARGE

The lien registered by .....  
*(name of seller, or as the case may be)*

of the ..... of .....  
*(residence)* *(occupation)*

upon the following lands: .....

.....  
*(description of lands)*

dated the ..... day of ....., 19....., and  
 registered the ..... day of ....., 19.....,  
 as No. .... in the registry (or land titles) office for the  
 ..... is discharged.

*(city, county or district)*

.....  
*(signature of seller, or as the case may be)*

R.S.O. 1960, c. 61, Form 4.

FORM 5

The Conditional Sales Act

(Section 5 (1) )

RENEWAL STATEMENT

Statement exhibiting the interest of .....  
.....  
of the ..... of ..... the .....  
..... (name of seller, or as the case may be)  
..... (residence) ..... (seller, or as the case may be)  
of .....  
..... (brief description of goods)  
mentioned in the contract made between .....  
of the ..... of ..... as .....  
..... (residence) ..... (seller, or as the case may be)  
and ..... of the ..... of .....  
..... (residence)  
as ..... a copy of which conditional sales  
..... (purchaser, or as the case may be)  
contract (or hire receipt) was filed in the office of the clerk of the .....  
court of the ..... of ..... on  
the ..... day of ..... 19....., and of the  
unpaid balance.

Contract price ..... \$ .....  
Payments on account ..... \$ .....  
Unpaid balance ..... \$ .....

Dated this ..... day of ..... 19.....

.....  
(signature of seller, or as the case may be)

## FORM 6

*The Conditional Sales Act**(Section 5 (2) )*

## AFFIDAVIT VERIFYING RENEWAL STATEMENT

I, ....., named in the  
(*name of seller, or as the case may be*)  
above (*or attached*) renewal statement, make oath and say:

1. That the facts set out in such statement are true and the conditional sale contract (*or hire receipt*) mentioned in this affidavit is not being kept on foot for fraudulent purposes.

(*Where the affidavit is made by the assignee, personal representative or agent of the seller or lender or by an officer of a corporation, a clause to the following effect must be added:*)

2. That I have full knowledge of the facts set forth in the above (*or attached*) renewal statement.

Sworn, etc.

.....  
(*signature of seller, or as the case may be*)

R.S.O. 1960, c. 61, Form 6.

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## CHAPTER 77

### The Condominium Act

#### I.—(1) In this Act,

Interpretation

- (a) “board” means the board of directors of a corporation;
- (b) “buildings” means the buildings included in a property;
- (c) “by-law” means a by-law of a corporation;
- (d) “claim” includes a right, title, interest, encumbrance, or demand of any kind affecting land, but does not include the interest of an owner in his unit and common interest;
- (e) “common elements” means all the property except the units;
- (f) “common expenses” means the expenses of the performance of the objects and duties of a corporation and any expenses specified as common expenses in a declaration;
- (g) “common interest” means the interest in the common elements appurtenant to a unit;
- (h) “corporation” means a corporation incorporated by this Act;
- (i) “declaration” means the declaration specified in section 3, and includes any amendments;
- (j) “description” means the description specified in section 4;
- (k) “encumbrance” means a claim that secures the payment of money or the performance of any other obligation, and includes a charge under *The Land Titles Act*, a mortgage and a lien; R.S.O. 1970, c. 234
- (l) “owner” means the owner or owners of the freehold estate or estates in a unit and common interest, but does not include a mortgagee unless in possession;
- (m) “prescribed” means prescribed by the regulations;
- (n) “property” means the land and interests appurtenant to the land described in the description, and includes any land and interests appurtenant to land that are added to the common elements;
- (o) “registered” means registered under *The Land Titles Act* or *The Registry Act*; R.S.O. 1970, cc. 234, 409
- (p) “regulations” means the regulations made under this Act;



- R.S.O. 1970,  
c. 452
- (q) “surveyor” means an Ontario land surveyor registered under *The Surveyors Act*;
- (r) “unit” means a part or parts of the land included in the description and designated as a unit by the description, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the declaration and description are registered.
- Ownership  
of land
- (2) For the purposes of this Act, the ownership of land includes the ownership of space. 1967, c. 12, s. 1.

## DECLARATION AND DESCRIPTION

- Freehold  
land only
- 2.**—(1) A property shall comprise only freehold land and interests, if any, appurtenant to that land.
- Who may  
register
- (2) A declaration and description may be registered by or on behalf of the owner in fee simple of the land described in the description.
- Land must  
be in one  
division
- (3) Where the land and the interests appurtenant to the land described in the description are not entirely within one land titles or registry division or not entirely under *The Land Titles Act* or *The Registry Act*, the description shall not be registered.
- Where land  
in land  
titles area
- (4) Where the land described in a description is situate in a provisional judicial district or in a county, part of a county, city or separated town to which *The Land Titles Act* applies, the declaration and description must be registered under that Act.
- Where land  
not in land  
titles area
- R.S.O. 1970,  
cc. 234, 59,  
409
- (5) Where the land described in a description is situate in a county, part of a county, city or separated town to which *The Land Titles Act* does not apply, a certificate of title under *The Certification of Titles Act* showing the owner by whom the declaration and description are being registered as the owner in fee simple of the land shall be registered under *The Registry Act* before the declaration and description are registered.
- Effect of  
registration
- (6) Upon registration of a declaration and description, the land and the interests appurtenant to the land described in the description are governed by this Act. 1967, c. 12, s. 2.

What  
declaration  
must  
contain

**3.**—(1) A declaration shall not be registered unless it is executed by the owner or owners of the land and interests appurtenant to the land described in the description and unless it contains,

- (a) a statement of intention that the land and interests appurtenant to the land described in the description be governed by this Act;

- (b) the consent of all persons having registered encumbrances against the land or interests appurtenant to the land described in the description;
- (c) a statement, expressed in percentages, of the proportions of the common interests;
- (d) a statement, expressed in percentages allocated to the units, of the proportions in which the owners are to contribute to the common expenses; and
- (e) an address for service.

(2) In addition to the matters mentioned in subsection 1, a declaration may contain,

What  
declaration  
may  
contain

- (a) a specification of common expenses;
- (b) a specification of any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;
- (c) provisions respecting the occupation and use of the units and common elements;
- (d) provisions restricting gifts, leases and sales of the units and common interests;
- (e) a specification of the number, qualification, nomination, election, term of office, compensation and removal of members of the board, and the meetings, quorum, functions and officers of the board;
- (f) a specification of duties of the corporation consistent with its objects;
- (g) a specification of the majority required to make by-laws of the corporation;
- (h) provisions regulating the assessment and collection of contributions towards the common expenses;
- (i) a specification of the majority required to make substantial changes in the common elements and the assets of the corporation;
- (j) a specification of any provision requiring the corporation to purchase the units and common interests of any dissenters after a substantial addition, alteration or improvement to or renovation of the common elements has been made or after the assets of the corporation have been substantially changed;
- (k) a specification of any allocation of the obligations to repair and to maintain the units and common elements;
- (l) a specification of the percentage of substantial damage to the buildings and a specification of the majority required to authorize repairs under section 17;

- (m) a specification of the majority required for a sale of the property or of part of the common elements;
- (n) a specification of the majority required for the termination of the government of the property by this Act; and
- (o) any other matters concerning the property.

Amendment  
of  
declaration

(3) The declaration may be amended only with the consent of all owners and all persons having registered encumbrances against the units and common interests.

Registration

(4) When a declaration is amended, the corporation shall register a copy of the amendment executed by all the owners and all persons having registered encumbrances against the units and common interests, and until the copy is registered the amendment is ineffective. 1967, c. 12, s. 3.

What  
description  
must  
contain

**4.—(1)** A description shall contain,

- (a) a plan of survey showing the perimeter of the horizontal surface of the land and the perimeter of the buildings;
- (b) structural plans of the buildings;
- (c) a specification of the boundaries of each unit by reference to the buildings;
- (d) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units and the buildings;
- (e) a certificate of a surveyor that the buildings have been constructed and that the diagrams of the units are substantially accurate and substantially in accordance with the structural plans; and
- (f) a description of any interests appurtenant to the land that are included in the property,

prepared in accordance with the regulations.

Approval of  
description

(2) A description shall not be registered unless it has been approved in accordance with the regulations. 1967, c. 12, s. 4.

#### REGISTRATION

Index

**5.—(1)** Every master of titles and every registrar of deeds in whose office a declaration and description are registered shall keep an index in the prescribed form to be known as the "Condominium Corporations Index".

Combined  
offices

(2) Where a land titles office is combined with a registry office, one index under subsection 1 shall be kept for all declarations and descriptions registered in the combined offices.

(3) Every master of titles and every registrar of deeds in whose office a declaration and description are registered shall keep a register in the prescribed form to be known as the “Condominium Register”.

Condominium Register

(4) Declarations, descriptions, by-laws, notices of termination, and other instruments respecting land governed by this Act shall be registered and recorded in the Condominium Register in accordance with this Act and the regulations but, except as otherwise provided by this Act and the regulations, *The Land Titles Act* or *The Registry Act*, as the case may be, applies in respect of property governed by this Act. 1967, c. 12, s. 5.

This Act to govern registrations, etc.

R.S.O. 1970, cc. 234, 409

UNITS AND COMMON ELEMENTS

**6.**—(1) Units and common interests are real property for all purposes.

Nature of units and common interests

(2) Subject to this Act, the declaration and the by-laws, each owner is entitled to exclusive ownership and use of his unit.

Ownership of units

(3) No condition shall be permitted to exist and no activity shall be carried on in any unit or the common elements that are likely to damage the property.

Dangerous activities

(4) The corporation or any person authorized by the corporation may enter any unit at any reasonable time to perform the objects and duties of the corporation. 1967, c. 12, s. 6.

Right to enter

**7.**—(1) The owners are tenants in common of the common elements.

Ownership of common elements

(2) An undivided interest in the common elements is appurtenant to each unit.

Common interests

(3) The proportions of the common interests are those expressed in the declaration.

Proportions

(4) Subject to this Act, the declaration and the by-laws, each owner may make reasonable use of the common elements.

Use of common elements

(5) The ownership of a unit shall not be separated from the ownership of the common interest, and any instrument that purports to separate the ownership of a unit from a common interest is void.

Ownership not to be separated

(6) Except as provided by this Act, the common elements shall not be partitioned or divided.

No division

(7) No encumbrance is enforceable against the common elements after the declaration and description are registered.

Encumbrances not enforceable

(8) Where, but for subsection 7, an encumbrance would be enforceable against the common elements, the encumbrance is enforceable against all the units and common interests.

Saving

- Discharge (9) Any unit and common interest may be discharged from such an encumbrance by payments to the claimant of a portion of the sum claimed determined by the proportions specified in the declaration for sharing the common expenses.
- Idem (10) Upon payment of a portion of the encumbrance sufficient to discharge a unit and common interest, and upon demand, the claimant shall give to the owner a discharge of that unit and common interest in accordance with the regulations.
- Assessment (11) For the purposes of municipal assessment and taxation, each unit and common interest constitute a parcel, and the common elements do not constitute a parcel.
- Where corporation deemed to be occupier (12) For the purpose of determining liability resulting from breach of the duties of an occupier of land, the corporation shall be deemed to be the occupier of the common elements and the owners shall be deemed not to be occupiers of the common elements. 1967, c. 12, s. 7.

## EASEMENTS

Easements  
appurtenant  
to units

**8.**—(1) The following easements are appurtenant to each unit:

1. Where a building or any part of a building,
  - (a) moves after registration of the declaration and description; or
  - (b) after having been damaged and repaired, is not restored to the position occupied at the time of registration of the declaration and description,

an easement for exclusive use and occupation in accordance with this Act, the declaration and the by-laws, over the space of the other units and common elements that would be space included in the unit if the boundaries of the unit were determined by the position of the buildings from time to time after registration of the description and not at the time of registration.

2. An easement for the provision of any service through any installation in the common elements or any other unit.
3. An easement for support by the common elements and any other unit capable of providing support.

Easements  
appurtenant  
to common  
elements

(2) The following easements are appurtenant to the common elements:

1. An easement for the provision of any service through any installation in any unit.
2. An easement for support by any unit capable of providing support. 1967, c. 12, s. 8.



CORPORATION

9.—(1) The registration of a declaration and description creates a corporation without share capital whose members are the owners from time to time.

Creation

(2) When a declaration and description are registered, the master of titles or registrar of deeds in whose office they are registered shall assign a name to the corporation in accordance with the regulations.

Name of corporation

(3) *The Corporations Act, The Corporations Information Act* and the provisions respecting mortmain of *The Mortmain and Charitable Uses Act* do not apply to the corporation.

R.S.O. 1970, cc. 89, 90, 280 do not apply

(4) The objects of the corporation are to manage the property and any assets of the corporation.

Objects

(5) The affairs of the corporation shall be managed by a board of directors, consisting of three persons or such greater number as the declaration or by-laws may provide, elected by the members of the corporation.

Board of directors

(6) The term of the members of the board shall be three years or such lesser period as the declaration or by-laws may provide, but the members of the board may continue to act until their successors are elected, and members are eligible for re-election.

Term

(7) If a vacancy in the membership of the board occurs, a new member shall be elected by the members of the corporation.

Vacancies

(8) A quorum for the transaction of business is a majority of the members of the board or such greater number as the declaration or by-laws may provide.

Quorum

(9) The acts of a member of the board or an officer of the board are valid notwithstanding any defect that may afterwards be discovered in his election or qualifications.

Defects

(10) The declaration or the by-laws may specify and regulate the qualification, nomination, election, compensation and removal of members of the board, and the meetings, functions and officers of the board.

Officers and executive

(11) The corporation shall keep adequate records, and any member of the corporation may inspect the records on reasonable notice and at any reasonable time.

Records

(12) The corporation has a duty to effect compliance by the owners with this Act, the declaration and the by-laws.

Duty to effect compliance

(13) The declaration or the by-laws may specify duties of the corporation consistent with its objects.

Duties

Right to  
performance  
of duties

(14) Each member of the corporation, and each person having an encumbrance against a unit and common interest has the right to the performance of any duty of the corporation specified by this Act, the declaration and the by-laws.

Real and  
personal  
property

(15) The corporation may own, acquire, encumber and dispose of real and personal property for the use and enjoyment of the property.

Interest  
in assets

(16) The members of the corporation share the assets of the corporation in the same proportions as the proportions of their common interests in accordance with this Act, the declaration and the by-laws.

Judgments  
against  
corporation

(17) A judgment for the payment of money against the corporation is also a judgment against each owner at the time the cause of action arose for a portion of the judgment determined by the proportions specified in the declaration for sharing the common expenses.

Actions by  
corporation  
respecting  
common  
elements

(18) Any action with respect to the common elements may be brought by the corporation and a judgment for the payment of money in favour of the corporation in such an action is an asset of the corporation.

Termination

(19) When the owners and the property cease to be governed by this Act,

- (a) the assets of the corporation shall be used to pay any claims for the payment of money against the corporation;
- (b) the remainder of the assets of the corporation shall be distributed among the members of the corporation in the same proportions as the proportions of their common interests. 1967, c. 12, s. 9.

#### BY-LAWS

By-laws

**10.—**(1) The corporation may, by a vote of members who own  $66\frac{2}{3}$  per cent, or such greater percentage as is specified in the declaration, of the common elements, make by-laws,

- (a) governing the management of the property;
- (b) governing the use of units or any of them for the purpose of preventing unreasonable interference with the use and enjoyment of the common elements and other units;
- (c) governing the use of the common elements;
- (d) regulating the maintenance of the units and common elements;
- (e) governing the use and management of the assets of the corporation;

- (f) respecting the board;
- (g) specifying duties of the corporation;
- (h) regulating the assessment and collection of contributions towards the common expenses;
- (i) respecting the conduct generally of the affairs of the corporation.

(2) The by-laws shall be reasonable and consistent with this Act and the declaration.

By-laws must be reasonable

(3) When a by-law is made by the corporation, the corporation shall register a copy of the by-law together with a certificate executed by the corporation that the by-law was made in accordance with this Act, the declaration and the by-laws, and until the copy and certificate are registered the by-law is ineffective. 1967, c. 12, s. 10.

Registration

RULES GOVERNING USE OF COMMON ELEMENTS

**11.**—(1) The by-laws may provide for the making of rules by the owners respecting the use of the common elements for the purpose of preventing unreasonable interference with the use and enjoyment of the units and common elements.

House rules

(2) The rules shall be reasonable and consistent with this Act, the declaration and the by-laws.

Idem

(3) The rules shall be complied with and enforced in the same manner as the by-laws. 1967, c. 12, s. 11.

Compliance and enforcement

OBLIGATIONS OF OWNERS

**12.**—(1) Each owner is bound by and shall comply with this Act, the declaration and the by-laws.

Obligations and rights of owners, etc.

(2) Each owner has a right to the compliance by the other owners with this Act, the declaration and the by-laws.

Idem

(3) The corporation, and any person having an encumbrance against any unit and common interest, has a right to the compliance by the owners with this Act, the declaration and the by-laws. 1967, c. 12, s. 12.

Right of corporation and encumbrances

**13.**—(1) The owners shall contribute towards the common expenses in the proportions specified in the declaration.

Duty of owners to contribute to common expenses

(2) The assessment and collection of contributions towards the common expenses may be regulated by the declaration or the by-laws.

Assessment and collection

No avoidance	(3) The obligation of an owner to contribute towards the common expenses shall not be avoided by waiver of the right to use the common elements or by abandonment.
Lien	(4) Where an owner defaults in his obligation to contribute to the corporation towards the common expenses, the corporation, upon registration of a notice of lien in the prescribed form, has a lien for the unpaid amount against the unit and common interest of that owner.
How enforceable	(5) The lien may be enforced in the same manner as a mortgage.
Discharge	(6) Upon payment of the unpaid amount and upon demand, the corporation shall give the owner a discharge in the prescribed form. 1967, c. 12, s. 13.

## MODIFICATIONS OF COMMON ELEMENTS AND ASSETS

Substantial alterations	<b>14.</b> —(1) The corporation may by a vote of members who own 80 per cent, or such greater percentage as is specified in the declaration, of the common elements make any substantial addition, alteration or improvement to or renovation of the common elements or may make any substantial change in the assets of the corporation, and the corporation may by a vote of a majority of the members make any other addition, alteration or improvement to or renovation of the common elements or may make any other change in the assets of the corporation.
Cost	(2) The cost of any addition, alteration or improvement to or renovation of the common elements and the cost of any substantial change in the assets of the corporation are common expenses.
Dissenters	(3) The declaration may provide that, if any substantial addition, alteration or improvement to or renovation of the common elements is made, or if any substantial change in the assets of the corporation is made, the corporation must, on demand of any owner who dissented, purchase his unit and common interest.
Arbitration	(4) Where the corporation and the owner who dissented do not agree as to the purchase price, the owner who dissented may elect to have the fair market value of his unit and common interest determined by arbitration under <i>The Arbitrations Act</i> by serving a notice to that effect on the corporation. 1967, c. 12, s. 14.
R.S.O. 1970, c. 25	

## INSURANCE

Duty to insure	<b>15.</b> —(1) A corporation shall insure its liability to repair the property after damage resulting from fire, tempest or other casualty to the extent required by the declaration or the by-laws.
Saving	(2) Subsection 1 does not restrict the capacity of any person to



insure otherwise than as provided in that subsection. 1967, c. 12, s. 15.

REPAIRS AND MAINTENANCE

**16.**—(1) For the purposes of this Act, the obligation to repair after damage and to maintain are mutually exclusive, and the obligation to repair after damage does not include the repair of improvements made to units after registration of the declaration and description.

Interpre-  
tation

(2) Subject to section 17, the corporation shall repair the units and common elements after damage.

Duty to  
repair

(3) The corporation shall maintain the common elements.

Maintenance  
of common  
elements

(4) Each owner shall maintain his unit.

Maintenance  
of units

(5) Notwithstanding subsections 2, 3 and 4, the declaration may provide that,

Declaration  
may provide  
otherwise

- (a) each owner shall, subject to section 17, repair his unit after damage;
- (b) the owners shall maintain the common elements or any part of the common elements; or
- (c) the corporation shall maintain the units.

(6) The corporation shall make any repairs that an owner is obligated to make and that he does not make within a reasonable time.

Where cor-  
poration to  
make  
repairs for  
owners

(7) An owner shall be deemed to have consented to have repairs done to his unit by the corporation under this section. 1967, c. 12, s. 16.

Consent

WHERE DAMAGE OCCURS

**17.**—(1) Where damage to the buildings occurs, the board shall determine within thirty days of the occurrence whether there has been substantial damage to 25 per cent, or such greater percentage as is specified in the declaration, of the buildings.

Determina-  
tion of  
damage

(2) Where there has been a determination that there has been substantial damage to 25 per cent, or such greater percentage as is specified in the declaration, and owners who own 80 per cent of the common elements, or such greater percentage as is specified in the declaration, vote for repair within sixty days of the determination, the corporation shall repair. 1967, c. 12, s. 17.

Vote for  
repair

TERMINATION

**18.**—(1) Where on a vote the owners do not vote for repair, the corporation shall, within ten days of the vote, register a notice of termination in the prescribed form.

Termination  
by notice  
after  
substantial  
damage



Idem

(2) Where there has been no vote within sixty days of the determination that there has been substantial damage under subsection 1 of section 17, the corporation shall, within ten days after the expiry of the sixty-day period, register a notice of termination in the prescribed form.

Effect of  
registration  
of notice

(3) Upon the registration of a notice of termination under subsection 1 or 2,

- (a) the government of the property by this Act is terminated;
- (b) the owners are tenants in common of the land and interests appurtenant to the land described in the description in the same proportions as their common interests;
- (c) claims against the land and interests appurtenant to the land created before the registration of the declaration and description are as effective as if the declaration and description had not been registered;
- (d) encumbrances against each unit and common interest created after the registration of the declaration and description are claims against the interest of the owner in the land and interests appurtenant to the land described in the description, and have the same priority they had before the registration of the notice of termination; and
- (e) all claims against the property created after the registration of the declaration and description, other than the encumbrances mentioned in clause *d*, are extinguished. 1967, c. 12, s. 18.

Termination  
by sale

**19.—**(1) Sale of the property or any part of the common elements may be authorized,

- (a) by a vote of owners who own 80 per cent, or such greater percentage as is specified in the declaration, of the common elements; and
- (b) by the consent of the persons having registered claims against the property or the part of the common elements, as the case may be, created after the registration of the declaration and description.

Execution  
of con-  
veyance

(2) A deed or transfer shall be executed by all the owners and a release or discharge shall be given by all the persons having registered claims against the property or the part of the common elements, as the case may be, created after the registration of the declaration and description.

(3) Upon the registration of the instruments mentioned in subsection 2, Effect of registration of conveyance

- (a) the government of the property or of the part of the common elements by this Act is terminated;
- (b) claims against the land and interests appurtenant to the land created before the registration of the declaration and description are as effective as if the declaration and description had not been registered; and
- (c) claims against the property or the part of the common elements created after the registration of the declaration and description are extinguished.

(4) Subject to subsection 5, the owners share the proceeds of the sale in the same proportions as their common interests. Proceeds

(5) Where a sale is made under this section, any owner who dissented may elect to have the fair market value of the property at the time of the sale determined by arbitration under *The Arbitrations Act* by serving notice to that effect on the corporation within ten days after the vote, and the owner who served the notice is entitled to receive from the proceeds of the sale the amount he would have received if the sale price had been the fair market value as determined by the arbitration. Rights of dissenters  
R.S.O. 1970, c. 25

(6) Where the proceeds of the sale are inadequate to pay the amount determined under subsection 5, each of the owners who voted for the sale is liable for a portion of the deficiency determined by the proportions of their common interests. 1967, c. 12, s. 19. Where proceeds inadequate

**20.**—(1) Termination of the government of the property by this Act may be authorized, Termination by notice without sale

- (a) by a vote of owners who own 80 per cent, or such greater percentage as is specified in the declaration of the common elements; and
- (b) by the consent of the persons having registered claims against the property created after the registration of the declaration and description.

(2) Where termination of the government of the property by this Act is authorized under subsection 1, the corporation shall register a notice of termination in the prescribed form, executed by all the owners and all the persons having registered claims against the property created after the registration of the declaration and description. Registration of notice

(3) Upon registration of a notice of termination under subsection 2, Effect of registration

- (a) the government of the property by this Act is terminated;

- (b) the owners are tenants in common of the land and interests appurtenant to the land described in the description in the same proportions as their common interests;
- (c) claims against the land and the interests appurtenant to the land described in the description created before the registration of the declaration and description are as effective as if the declaration and description had not been registered;
- (d) encumbrances against each unit and common interest created after the registration of the declaration and description are claims against the interest of the owner in the land and interests appurtenant to the land described in the description and have the same priority as they had before the registration of the notice of termination; and
- (e) all other claims against the property created after the registration of the declaration and description are extinguished. 1967, c. 12, s. 20.

Termination  
by S.C.O.

**21.**—(1) A corporation, any owner, or any person having an encumbrance against a unit and common interest may apply to the Supreme Court for an order terminating the government of the property by this Act.

Order

(2) The court may order that the government of the property by this Act be terminated if the court is of the opinion that the termination would be just and equitable, and, in determining whether the termination would be just and equitable, the court shall have regard to,

- (a) the scheme and intent of this Act;
- (b) the probability of unfairness to one or more owners if termination is not ordered; and
- (c) the probability of confusion and uncertainty in the affairs of the corporation or the owners if termination is not ordered.

Ancillary  
matters

(3) Where an order of termination is made under subsection 2, the court may include in the order any provisions that the court considers appropriate in the circumstances. 1967, c. 12, s. 21.

#### VOTING BY MORTGAGEES

Rights of  
mortgagees

**22.** Where a mortgage or charge of a unit and common interest contains a provision that authorizes the mortgagee or chargee to exercise the right of the owner to vote or to consent, the mortgagee or chargee may exercise the right, and, where two or

more such mortgages or charges contain such a provision, the right may be exercised by the mortgagee or chargee who has priority. 1967, c. 12, s. 22.

#### PERFORMANCE OF DUTIES

**23.**—(1) Where a duty imposed by this Act, the declaration or the by-laws is not performed, the corporation, any owner, or any person having an encumbrance against a unit and common interest may apply to the Supreme Court for an order directing the performance of the duty. Application for order to require performance of duties

(2) The court may by order direct performance of the duty, Idem and may include in the order any provisions that the court considers appropriate in the circumstances.

(3) Nothing in this section restricts the remedies otherwise available for failure to perform any duty imposed by this Act. 1967, c. 12, s. 23. Saving

#### APPLICATION OF THE PLANNING ACT

**24.**—(1) Section 26 and clause *b* of subsection 1 of section 27 of *The Planning Act* do not apply in respect of dealings with units and common interests. Application of subdivision control R.S.O. 1970, c. 349

(2) Subject to subsection 3, the provisions of section 28 of *The Planning Act* that apply to plans of subdivision apply *mutatis mutandis* to descriptions under this Act, and a description shall not be registered unless approved or exempted by the Minister of Municipal Affairs. Approval of descriptions under R.S.O. 1970, c. 349, s. 28

(3) Before making an application under subsection 1 of section 28 of *The Planning Act*, the owner of a property or someone authorized by him in writing may apply to the Minister to have the description or any part of the description exempted from such section 28, or from any provision thereof, and where in the opinion of the Minister such exemption is appropriate in the circumstances, he may grant the exemption. Exemption

(4) Section 29 of *The Planning Act* does not apply in respect to descriptions made for the purposes of this Act. 1967, c. 12, s. 24. R.S.O. 1970, c. 349, s. 29, not to apply

#### REGULATIONS

**25.**—(1) The Lieutenant Governor in Council may make Regulations regulations,

(a) classifying properties for the purposes of the regulations;

(b) prescribing the duties of officers appointed under *The Land Titles Act* or *The Registry Act* for the purposes of this Act; R.S.O. 1970, cc. 234, 409

- (c) governing the method of describing in instruments a property or any part of a property;
- (d) governing surveys, structural plans, descriptions and diagrams, and prescribing procedures for their registration and amendment;
- (e) requiring, in respect of any class of properties, in lieu of or in addition to the requirements of section 4, surveys of the properties showing the units and common elements;
- (f) respecting the registration and recording of declarations, descriptions, by-laws, notices of termination and other instruments;
- (g) respecting the names of corporations;
- (h) respecting additions to the common elements;
- (i) requiring the payment of fees to officers appointed under *The Land Titles Act* or *The Registry Act*, and prescribing the amounts thereof;
- (j) prescribing forms and providing for their use;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

R.S.O. 1970,  
cc. 234, 409

Application  
of  
regulations

(2) Any provision of any regulation may be made to apply to all properties or to any class of properties. 1967, c. 12, s. 25.

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## CHAPTER 78

## The Conservation Authorities Act

## 1. In this Act,

Interpre-  
tation

- (a) “administration costs” means salaries and travelling expenses of members and employees of an authority, office rent, maintenance and purchase of office equipment, expenses connected with exhibits, visual equipment and printed matter for educational purposes, and all expenditures necessary for carrying out the objects of an authority other than capital expenses and maintenance costs of approved projects;
- (b) “advisory board” means an advisory board appointed by an authority;
- (c) “authority” means a conservation authority established by or under this Act or a predecessor of this Act;
- (d) “executive committee” means the executive committee appointed by an authority;
- (e) “land” includes buildings and any estate, term, easement, right or interest in, to, over or affecting land;
- (f) “maintenance costs” means all expenditures required specifically in relation to the operation or maintenance of an approved project;
- (g) “Minister” means the Minister of Energy and Resources Management;
- (h) “municipality” means a city, town, village, township or improvement district, and includes a band under the *Indian Act* (Canada) that is permitted to control, manage and expend its revenue moneys under section 68 of that Act; R.S.C. 1952,  
c. 149
- (i) “participating municipality” means a municipality that is designated by or under this Act as a participating municipality;
- (j) “project” means a work undertaken by an authority for the furtherance of its objects;
- (k) “referee” means the referee appointed under *The Drainage Act*; R.S.O. 1970,  
c. 136
- (l) “watershed” means an area drained by a river and its tributaries. 1968, c. 15, s. 1; 1968-69, c. 13, s. 1.

Calling of  
meeting

**2.**—(1) Where the councils of any two or more municipalities situate either wholly or partly within a watershed by resolution request the Minister to call a meeting for the establishment of an authority for the watershed or any defined part thereof, the Minister shall fix a time and place for such a meeting and shall forthwith notify the council of every municipality either wholly or partly within the watershed or such part thereof.

Represent-  
atives at  
meeting

(2) The council of each municipality may appoint representatives to attend the meeting in the following numbers:

1. Where the population is 250,000 or more, five representatives.
2. Where the population is 100,000 or more but less than 250,000, four representatives.
3. Where the population is 50,000 or more but less than 100,000, three representatives.
4. Where the population is 10,000 or more but less than 50,000, two representatives.
5. Where the population is less than 10,000, one representative.

Authority  
of representa-  
tives

(3) The representatives so appointed have authority to vote and generally act on behalf of their respective municipalities at such meeting.

Quorum

(4) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities notified are entitled to appoint, but, where not fewer than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time. 1968, c. 15, s. 2.

Establish-  
ment of  
authority

**3.**—(1) Upon receipt by the Minister of a resolution passed at a meeting or adjourned meeting held under section 2 and at which a quorum was present by not less than two-thirds of the representatives present thereat requesting the establishment of an authority, the Lieutenant Governor in Council may establish a conservation authority and designate the municipalities that are the participating municipalities and the area over which the authority has jurisdiction.

Urban  
municipi-  
palities

(2) Where a city, town or village is only partly within the watershed, the Lieutenant Governor in Council may include the whole or that part of the city, town or village in the area over which the authority has jurisdiction.

Name of  
authority

(3) The name of each authority shall be determined by the Lieutenant Governor in Council and shall conclude with the words "conservation authority".

(4) Every authority is a body corporate.

Corporate body

(5) Every authority may, for its purposes, borrow on the promissory note of the authority, at such rate of interest as the Minister approves, such moneys as may be required until payment to the authority of any grants and of sums to be paid to the authority by the participating municipalities. 1968, c. 15, s. 3.

Borrowing power

4.—(1) Where a regional municipality has been established, the regional municipality, on and after the 1st day of January after it is established,

Regional municipality to act in place of local municipalities

(a) shall act in the place of the local municipalities within the regional municipality for the purpose of appointing representatives to attend a meeting for the establishment or enlargement of a conservation authority or the amalgamation of conservation authorities and for such purpose may appoint representatives in the numbers to which the local municipalities would otherwise have been entitled; and

(b) shall be a participating municipality in the place of such of the local municipalities within the regional municipality as are wholly or partly within the area under the jurisdiction of a conservation authority and shall appoint to each such authority the number of members to which the local municipalities would otherwise have been entitled as participating municipalities.

(2) When a regional municipality is established, the members of an authority then holding office who were appointed by a local municipality wholly or partly within the regional municipality shall continue to hold office until their respective terms of office expire and shall be deemed to have been appointed by the regional municipality. 1968-69, c. 13, s. 2 (1, 2).

Present members when regional municipality established

5.—(1) In this section, “Metropolitan Conservation Authority” means The Metropolitan Toronto and Region Conservation Authority.

Interpretation

(2) The Metropolitan Toronto and Region Conservation Authority is continued.

Metropolitan Conservation Authority continued

(3) The Municipality of Metropolitan Toronto, the towns of Ajax, Brampton, Mississauga and Richmond Hill, the townships of Adjala, Albion, Caledon, Chinguacousy, King, Markham, Mono, Pickering, Toronto Gore, Uxbridge, Vaughan and Whitchurch and the villages of Bolton, Markham, Pickering, Stouffville and Woodbridge are hereby designated as the participating municipalities in the Metropolitan Conservation Authority for the purposes of this Act.

Participating municipalities

Jurisdiction  
of Metro-  
politan  
Conserva-  
tion  
Authority

(4) The Metropolitan Conservation Authority has jurisdiction in all matters provided for in this Act over an area composed of all areas formerly under the jurisdictions of the Etobicoke-Mimico Conservation Authority, the Humber Valley Conservation Authority, the Don Valley Conservation Authority, and the Rouge, Duffin, Highland, Petticoat Conservation Authority, together with all other areas lying between the westerly limit of the area formerly under the jurisdiction of the Etobicoke-Mimico Conservation Authority and the easterly limit of the area formerly under the jurisdiction of the Rouge, Duffin, Highland, Petticoat Conservation Authority and which front on Lake Ontario and together with the area within the watershed of Carruthers Creek and the area known as Toronto Island.

Adjala,  
Caledon and  
Mono to be  
one muni-  
cipality

(5) For the purposes of appointing members to the Metropolitan Conservation Authority, the townships of Adjala, Caledon and Mono shall be considered as one municipality.

Members

(6) Notwithstanding section 13, the number of members appointed to the Metropolitan Conservation Authority by The Municipality of Metropolitan Toronto shall at all times be equal to the total number of members appointed by the other participating municipalities. 1968, c. 15, s. 4.

Hamilton  
Region Con-  
servation  
Authority  
continued

**6.—(1)** The Hamilton Region Conservation Authority is continued.

Partici-  
pating  
muni-  
cipalities

(2) The City of Hamilton, the towns of Dundas and Stoney Creek and the townships of Ancaster, Beverly, Flamborough East, Flamborough West, Puslinch, and Saltfleet are hereby designated as the participating municipalities in the Hamilton Region Conservation Authority for the purposes of this Act.

Jurisdiction  
of Authority

(3) The Hamilton Region Conservation Authority has jurisdiction in all matters provided for in this Act over an area composed of the watersheds of Spencer Creek and all other streams entering Lake Ontario, including any bays or inlets thereof, from the point where the northeast boundary of the Spencer Creek watershed meets the shore of Lake Ontario to the point where the northwest boundary of the Niagara Peninsula Conservation Authority meets the shore of Lake Ontario.

Idem

(4) The City of Hamilton and the Town of Stoney Creek are wholly included in the area over which the Hamilton Region Conservation Authority has jurisdiction.

Members

(5) Notwithstanding section 13, the number of members appointed by the City of Hamilton shall, at all times, be equal to the total number of members appointed by the other participating municipalities. 1968, c. 15, s. 5.



**7.**—(1) The Grand River Conservation Authority is continued as a conservation authority under this Act.

Grand River Conservation Authority continued

(2) The Lieutenant Governor in Council may,

Designation of participating municipalities and appointment of members

- (a) designate the municipalities that are the participating municipalities of the Grand River Conservation Authority and the area over which it has jurisdiction, and designate any group of municipalities that shall be considered as one municipality for the purpose of appointing a member or members to the Authority;
- (b) provide for the appointment of the member or members to be appointed by a group of municipalities;
- (c) notwithstanding section 13, appoint not more than eight members to the Authority for a term of three years.

(3) Each member of the Grand River Conservation Authority appointed by the Lieutenant Governor in Council shall hold office until the first meeting of the Grand River Conservation Authority after the term for which he was appointed has expired. 1968, c. 15, s. 6, *amended*.

Term of office of members appointed

**8.** Where the councils of any three municipalities situate either wholly or partly within the area comprising two or more watersheds by resolution request the Minister to call a meeting for the establishment of an authority for such watersheds or any defined parts thereof, the provisions of sections 2 and 3 apply *mutatis mutandis*. 1968, c. 15, s. 7.

Establishment of authority

**9.**—(1) Where,

- (a) an authority has been established for one or more watersheds; and
- (b) the council of a municipality by resolution requests the Minister to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include one or more watersheds,

Meeting for enlargement of authority

the Minister shall fix a time and place for such a meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality situate either wholly or partly within the watershed or watersheds to be included.

(2) With respect to each municipality so notified, subsection 2 of section 2 applies.

Representatives

(3) At any meeting called under this section, a quorum consists of the number of members of the existing authority required to constitute a quorum of the authority and two-thirds of the representatives that the municipalities notified are entitled to

Quorum



appoint, but, where not fewer than two members of the authority and three municipal representatives are present at a meeting or an adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time. 1968, c. 15, s. 8 (1-3).

Enlarge-  
ment of  
authority

(4) Upon receipt by the Minister of a joint resolution passed at a meeting or adjourned meeting held under subsection 3 and at which a quorum was present by not less than two-thirds of the members of the authority and not less than two-thirds of the municipal representatives thereat requesting the enlargement of the area over which the authority has jurisdiction to include one or more watersheds, the Lieutenant Governor in Council may enlarge the area accordingly and may designate the additional municipalities that are the participating municipalities and the area over which the enlarged authority has jurisdiction. 1968, c. 15, s. 8 (4).

Amalgama-  
tion of  
authorities

**10.—(1) Where,**

- (a) two or more authorities have been established for two or more adjoining watersheds or parts thereof; and
- (b) one or more of such authorities by resolution requests the Minister to call a meeting to consider the establishment of one authority to have jurisdiction over the areas then under the separate jurisdictions of such authorities,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of each of the authorities concerned and the council of each municipality that is a participating municipality with respect to any of the authorities concerned.

Represent-  
atives

(2) With respect to each municipality so notified, subsection 2 of section 2 applies.

Quorum

(3) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities notified are entitled to appoint, but, where not fewer than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time.

Establish-  
ment of new  
authority

(4) Upon receipt by the Minister of a resolution passed at a meeting or adjourned meeting held under subsection 3 and at which a quorum was present by not less than two-thirds of the representatives present thereat requesting the establishment of one authority for the watersheds or parts of watersheds concerned, the Lieutenant Governor in Council may establish an authority accordingly, dissolve the existing authorities, and designate the municipalities that are the participating municipalities and the area over which the new authority has jurisdiction.

(5) Upon the establishment of a new authority and the dissolution of the existing authorities under subsection 4, all the assets and liabilities of the dissolved authorities vest in and become assets and liabilities of the new authority. 1968, c. 15, s. 9.

Assets and liabilities of former authorities

**11.** Where,

- (a) an authority has been established and has under its jurisdiction part of a watershed; and
- (b) the council of a municipality, situate either wholly or partly within any defined part of the watershed not under the jurisdiction of the authority, by resolution requests the Minister to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include such defined part,

Enlargement of authority having jurisdiction in part of a watershed

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality either wholly or partly within such defined part, and the provisions of subsections 2, 3 and 4 of section 8 apply *mutatis mutandis*. 1968, c. 15, s. 10.

**12.** Where a new municipality is erected or two or more municipalities are amalgamated or any area is annexed to a municipality and any part of the resulting municipality is within the area over which an authority has jurisdiction, such resulting municipality shall be deemed to have been designated a participating municipality by the Lieutenant Governor in Council. 1968, c. 15, s. 11.

Participating municipalities following annexation, etc.

**13.—(1)** Members of an authority shall be appointed by the respective councils of the participating municipalities in the numbers prescribed by subsection 2 of section 2 for the appointment of representatives, and each member shall hold office until the first meeting of the authority after the term for which he was appointed has expired.

Members of authority

(2) Every member of an authority shall be resident in a participating municipality in which the authority has jurisdiction.

Qualification

(3) No member of an authority shall be appointed to hold office for more than three years at any one time.

Term

(4) Where part only of a municipality is situated in an area over which an authority has jurisdiction, the number of members appointed for the municipality shall be based on the population of that part only of the municipality, and such population shall be deemed to be the same proportion of the total population of the whole municipality as the number of acres in that part of the municipality is of the total acreage of the municipality.

Where part only of municipality under an authority

Members  
appointed  
by  
Lieutenant  
Governor in  
Council

(5) Where a grant is made to an authority under section 39, the Lieutenant Governor in Council may appoint not more than three members of the authority for a term of three years, and each such member shall hold office for the term for which he was appointed and until his successor is appointed. 1968, c. 15, s. 12.

Meetings

**14.**—(1) The first meeting of an authority shall be held at such time and place as may be determined by the Minister and, in each year thereafter, the authority shall hold at least one meeting before the 1st day of March and at least one meeting after the 1st day of July and such other meetings as it considers necessary to effectively conduct the affairs of the authority.

Copies of  
minutes to  
members

(2) Within fifteen days after any meeting of an authority or of an executive committee, the secretary-treasurer of the authority shall send a copy of the minutes of the meeting to each member of the authority. 1968, c. 15, s. 13.

Votes

**15.**—(1) Each member of an authority is entitled to one vote, and, in the event of a tie vote, the chairman has a second or deciding vote.

Quorum

(2) At any meeting of an authority, a quorum consists of one-third of the members appointed by the participating municipalities, except where there are fewer than six such members, in which case two such members constitute a quorum.

Majority  
vote

(3) A majority vote of the members present at any meeting is required upon all matters coming before the meeting. 1968, c. 15, s. 14.

Chairman,  
vice-  
chairmen

**16.**—(1) At the first meeting of an authority and thereafter at the first meeting held in each year, the authority shall appoint a chairman and one or more vice-chairmen from among the members of the authority, but, where a grant is made to an authority under section 39, the Lieutenant Governor in Council may appoint the chairman from among the members of the authority.

Death of  
chairman  
or vice-  
chairman

(2) Subject to subsection 1, upon the death of the chairman or a vice-chairman, or upon the incapacity of the chairman or a vice-chairman to act, or upon the chairman or a vice-chairman ceasing to be a member of the authority, the remaining members may appoint a member to fill such vacancy.

Absence of  
chairman  
and vice-  
chairmen

(3) In the event of the absence of the chairman and the vice-chairmen from any meeting of an authority, the members present shall appoint an acting chairman who, for the purposes of such meeting, has all the powers and shall perform all the duties of the chairman. 1968, c. 15, s. 15.

Appoint-  
ment of  
employees

**17.**—(1) An authority shall appoint a secretary-treasurer and may appoint such other employees as it considers necessary who

shall hold office during the pleasure of the authority and shall receive such salary or other remuneration as the authority determines, payable out of the funds of the authority.

(2) An authority may appoint one or more advisory boards. 1968, c. 15, s. 16. Advisory  
boards

**18.**—(1) The authority may appoint an executive committee from among the members of the authority. Executive  
committee

(2) The chairman and vice-chairmen of the authority shall be the chairman and vice-chairmen of the executive committee. Chairman,  
vice-  
chairmen

(3) Where a grant is made to an authority under section 39, the Lieutenant Governor in Council may appoint a member of the authority to the executive committee. 1968, c. 15, s. 17. Appoint-  
ment by  
Lieutenant  
Governor in  
Council

**19.** The objects of an authority are to establish and undertake, in the area over which it has jurisdiction, a program designed to further the conservation, restoration, development and management of natural resources other than gas, oil, coal and minerals. 1968, c. 15, s. 18. Objects

**20.** For the purposes of accomplishing its objects, an authority has power, Powers of  
authorities

- (a) to study and investigate the watershed and to determine a program whereby the natural resources of the watershed may be conserved, restored, developed and managed;
- (b) for any purpose necessary to any project under consideration or undertaken by the authority, to enter into and upon any land and survey and take levels of it and make such borings or sink such trial pits as the authority considers necessary;
- (c) to acquire by purchase, lease or otherwise and to expropriate any land that it may require, and, subject to the approval of the Lieutenant Governor in Council, to sell, lease or otherwise dispose of land so acquired;
- (d) to lease for a term of one year or less, without the approval of the Lieutenant Governor in Council, land acquired by the authority;
- (e) where the executive committee of the authority is of opinion that the authority can obtain the whole of any lot or parcel of land of which any part may be expropriated by it at a more reasonable price or to greater advantage than by acquiring such part only, to expropriate the whole of such lot or parcel and to sell and convey any part thereof as it considers expedient;



- (f) to purchase or acquire any personal property that it may require and sell or otherwise deal therewith;
- (g) to enter into such agreements for the purchase of materials, employment of labour and such other purposes as may be necessary for the due carrying out of any project;
- (h) to enter into agreements with owners of private lands to facilitate the due carrying out of any project;
- (i) to determine the proportion of the total benefit afforded to all the participating municipalities that is afforded to each of them;
- (j) to erect works and structures and create reservoirs by the construction of dams or otherwise;
- (k) to control the flow of surface waters in order to prevent floods or pollution or to reduce the adverse effects thereof;
- (l) to alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, road, street or way, or raise or sink its level in order to carry it over or under, on the level of or by the side of any work built or to be built by the authority, and to divert or alter the position of any water-pipe, gas-pipe, sewer, drain or any telegraph, telephone or electric wire or pole;
- (m) to use lands that are owned or controlled by the authority for such purposes, not inconsistent with its objects, as it considers proper;
- (n) to use lands owned or controlled by the authority for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to make charges for admission thereto and the use thereof;
- (o) to collaborate and enter into agreements with departments and agencies of government, municipal councils and local boards and other organizations;
- (p) to plant and produce trees on Crown lands with the consent of the Minister of Lands and Forests, and on other lands with the consent of the owner, for any purpose;
- (q) to cause research to be done;
- (r) generally to do all such acts as are necessary for the due carrying out of any project. 1968, c. 15, s. 19.



reconstruction or maintenance of an existing road under the jurisdiction of the municipality for the purpose of providing access to lands of the authority used or to be used for park or recreational purposes. 1968, c. 15, s. 20.

**22.** Notwithstanding any powers conferred upon an authority by this Act, the Minister or his representative may, when and for such periods as he considers necessary in the public interest, issue instructions for or take over the operation of all water control structures of an authority. 1968, c. 15, s. 21.

Water control structures, authority of Minister to operate

**23.—**(1) Before proceeding with a project, the authority shall file plans and a description thereof with and obtain the approval in writing of the Minister, and, where any portion of the cost of a project is to be raised in a subsequent year or years, shall also obtain the approval of the Ontario Municipal Board.

Approval of project

(2) When the statement of apportionment of the cost of any project requires a municipality to raise any portion of the cost in a subsequent year or years, the council shall, within thirty days after it receives the notice of apportionment, notify the authority in writing whether such portion of the cost will be provided by the issue of debentures or raised by taxation in the subsequent year or years.

Notice re raising of portion of cost

(3) When a municipal council has, in accordance with subsection 2 of section 24, notified the secretary of the Ontario Municipal Board that it is dissatisfied with any such apportionment, the time allowed for notifying the authority under subsection 2 shall be reckoned from the date of the order confirming or varying the apportionment.

Time for notice where apportionment under review

(4) Where any municipality is required to obtain the approval of the Ontario Municipal Board with respect to the raising of moneys in connection with any project of the authority, the application of the authority under subsection 1 shall be considered an application for such approval on behalf of the municipality.

Application for approval on behalf of municipality

(5) Notwithstanding *The Lakes and Rivers Improvement Act*, a project for the construction of dams or other works on a lake or river that has been approved under this section does not require approval under that Act. 1968, c. 15, s. 22.

Approval under R.S.O. 1970, c. 233

**24.—**(1) When an authority has determined the proportion of the total benefit of any project afforded to all the participating municipalities that is afforded to each of them, it shall cause a notice containing a statement of such apportionment to be sent to the council of each participating municipality by registered mail.

Notice of apportionment

Review of  
apportion-  
ment by  
O.M.B.

(2) Any municipal council that is dissatisfied with any such apportionment may, within thirty days after it receives notice of the apportionment, notify the secretary of the Ontario Municipal Board and the authority in writing by registered mail that it applies for a review of the apportionment by the Ontario Municipal Board.

Hearing

(3) Upon such application, the Ontario Municipal Board shall fix a date for the hearing of all interested parties and shall give all necessary directions for the hearing.

Powers of  
O.M.B. on  
hearing

(4) The Ontario Municipal Board has authority to take evidence, to confirm or vary the apportionment of the authority and to fix and award costs, and its decision is final and conclusive and is not open to appeal.

Variation of  
apportion-  
ment

(5) In the event of the authority varying any apportionment made by it, the provisions of this section apply *mutatis mutandis*. 1968, c. 15, s. 23.

Determina-  
tion of  
capital  
expenditure

**25.**—(1) An authority may, from time to time, determine what moneys will be required for capital expenditure in connection with any project.

Portion  
to be raised  
by partici-  
pating  
municipi-  
alities

(2) The portion of the moneys so required that each participating municipality shall raise shall be in the same proportion as the benefit derived by each such municipality bears to the total benefit derived by all participating municipalities.

How money  
to be raised

(3) Upon notice in writing of the amount required to be raised, signed by the secretary-treasurer of the authority, each participating municipality shall raise by the issue of debentures or otherwise such moneys as may be required by the authority for capital expenditure, subject only to such conditions as the Ontario Municipal Board may impose as to the time and manner of the raising of such moneys.

Enforce-  
ment of  
payment

(4) Subject to subsection 3, an authority may enforce payment against any participating municipality of the portion of the capital cost required to be raised by the municipality as a debt due by the municipality to the authority.

Where only  
part of  
municipi-  
pality  
in area

(5) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the portion of the moneys required to be raised by that municipality for capital expenditure may be charged only against the rateable property in that part of the municipality.

Limited  
benefit

(6) Where the council of a participating municipality is of opinion that the major part of the benefit to be derived from a specific work accrues to a limited area of the municipality, the council, with the approval of the Minister, may by by-law provide

that a specified portion of the moneys required to be raised by that municipality for capital expenditure in connection with that work shall be defrayed by a special rate upon the rateable property in that area, which area shall be defined in the by-law, and that the balance of such moneys shall be defrayed by a special rate upon the rateable property in the remaining portion of the municipality within the area over which the authority has jurisdiction. 1968, c. 15, s. 24.

**26.**—(1) In subsection 3, “equalized assessment” means the assessment upon which taxes are levied in the year preceding the year in which the proportion will be payable as adjusted by the application of the equalization factor based on such assessment provided by the Department of Municipal Affairs.

Interpre-  
tation

(2) After determining the approximate maintenance costs for the succeeding year, the authority shall apportion such costs to the participating municipalities according to the benefit derived or to be derived by each such municipality, and the amount apportioned to each municipality shall be levied against each such municipality.

Apportion-  
ment of  
maintenance  
costs

(3) After determining the approximate administration costs for the succeeding year, the authority shall apportion such costs to the participating municipalities in the proportion that the equalized assessment of the municipality or part bears to the equalized assessment of the whole area under the jurisdiction of the authority, and the amount apportioned to each municipality shall be levied against each such municipality.

Apportion-  
ment of  
administra-  
tion costs

(4) An authority may establish a minimum sum that may be levied for administration costs by the authority against a participating municipality, and, where the amount apportioned to any municipality under subsection 3 is less than such minimum sum, the authority may levy the minimum sum against such municipality.

Minimum  
levy for  
administra-  
tion costs

(5) The secretary-treasurer of the authority, forthwith after the amounts have been apportioned under subsections 2, 3 and 4, shall certify to the clerk of each participating municipality the total amount that has been levied under such subsections, and such amount shall be collected by the municipality in the same manner as municipal taxes for general purposes.

Notice of  
apportion-  
ment

(6) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the amount apportioned to that municipality may be charged only against the rateable property in that part of the municipality and shall be collected in the same manner as municipal taxes for general purposes.

Levy where  
only part  
of muni-  
cipality  
in area

Enforce-  
ment of  
payment

(7) An authority may enforce payment against any participating municipality of any portion of the maintenance costs or administration costs levied against such municipality as a debt due by such municipality to the authority. 1968, c. 15, s. 25.

Regulations  
by authority

**27.**—(1) Subject to the approval of the Lieutenant Governor in Council, an authority may make regulations applicable in the area under its jurisdiction,

- (a) restricting and regulating the use of water in or from rivers, streams, inland lakes, ponds, swamps, and natural or artificially constructed depressions in rivers or streams;
- (b) prohibiting or regulating the straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse;
- (c) regulating the location of ponds used as a source of water for irrigation;
- (d) providing for the appointment of officers to enforce any regulation made under this section;
- (e) prohibiting or regulating the construction of any building or structure in or on a pond or swamp or in any area below the high-water mark of a lake, river, creek or stream;
- (f) prohibiting or regulating the placing or dumping of fill of any kind in any defined part of the area over which the authority has jurisdiction in which in the opinion of the authority the control of flooding or pollution or the conservation of land may be affected by the placing or dumping of fill. 1968, c. 15, s. 26 (1); 1968-69, c. 13, s. 3.

Exceptions

- (2) No regulation made under this section,
  - (a) shall limit the use of water for domestic or live stock purposes;
  - (b) shall interfere with any rights or powers conferred upon a municipality;
  - (c) shall interfere with any rights or powers of The Hydro-Electric Power Commission of Ontario or of any board or commission that is performing its functions for or on behalf of the Government of Ontario; or
  - (d) shall interfere with any rights or powers under *The Public Utilities Act*.

R.S.O. 1970,  
c. 390

Offence

(3) Every person who contravenes any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to a term of imprisonment of not more than three months. 1968, c. 15, s. 26 (2, 3).



(4) In addition to any other remedy or penalty provided by law, the provincial judge, upon making a conviction under subsection 3 for constructing a building or structure or placing or dumping fill in contravention of any regulation made under this section, may order the person convicted to remove any such building, structure or fill within such time as the provincial judge orders, and, if such person fails to comply with such order, the authority having jurisdiction in the area in which such building, structure or fill is situated may cause the building, structure or fill to be removed, and the cost thereof shall be borne and paid by the person convicted and is recoverable by the authority by action in a court of competent jurisdiction. 1968, c. 15, s. 26 (4), *amended*.

Order for  
removal of  
fill,  
structure,  
etc.

**28.**—(1) Subject to the approval of the Lieutenant Governor in Council, an authority may make regulations applicable to lands owned by the authority,

Regulations

- (a) regulating and governing the use by the public of the lands and the works, vehicles, boats, services and things of the authority;
- (b) providing for the protection and preservation from damage of the property of the authority;
- (c) prescribing fees for the occupation and use of lands and works, vehicles, boats, recreational facilities and services;
- (d) prescribing permits designating privileges in connection with use of the lands or any part thereof and prescribing fees for such permits;
- (e) regulating and governing vehicular and pedestrian traffic and prohibiting the use of any class of vehicle or classes of vehicles;
- (f) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices;
- (g) prescribing terms and conditions under which horses, dogs and other animals may be allowed on the lands or any part thereof;
- (h) subject to *The Forest Fires Prevention Act* and the regulations made thereunder, prohibiting or regulating and governing the use, setting and extinguishment of fires.

R.S.O. 1970,  
c. 179

(2) Every person who contravenes any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1968, c. 15, s. 27.

Offence



## Regulations

**29.** Subject to the approval of the Minister, an authority shall make regulations,

- (a) providing for the calling of meetings of the authority and prescribing the procedure at such meetings;
- (b) prescribing the powers and duties of the secretary-treasurer;
- (c) designating and empowering officers to sign contracts, agreements and other documents on behalf of the authority;
- (d) delegating all or any of its powers to the executive committee except,
  - (i) the termination of the services of the secretary-treasurer,
  - (ii) the power to raise money, and
  - (iii) the power to enter into contracts or agreements other than such contracts or agreements as are necessarily incidental to the works approved by the authority.

## Time for making regulations

(2) Every authority shall make regulations under subsection 1 within one year after its establishment. 1968, c. 15, s. 28, *amended*.

## Application of R.S.O. 1970, c. 154

**30.** *The Expropriations Act* applies where land is expropriated by an authority or where land is injuriously affected by an authority in the exercise of its statutory powers. 1968, c. 15, s. 29, *amended*.

## Affecting Crown land

**31.—(1)** Where any land required for the carrying out of a project or a part thereof is Crown land, a plan and description of the land prepared and signed by an Ontario land surveyor and signed by the chairman or vice-chairman of the authority shall be deposited with the Minister of Lands and Forests, and the project or the part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Lands and Forests.

## Interference with public work

(2) Where a project or a part thereof may interfere with a public work of Ontario or of The Hydro-Electric Power Commission of Ontario, the authority shall file with the Minister of Public Works or with the Commission, as the case may be, a plan and description of the project or a part thereof together with a statement of the interference with the public work that may occur and a statement of the manner in which the authority proposes to remedy the interference, and the project or the part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Public Works or of the Commission, as the case may be.

(3) Where a project or a part thereof will interfere with a public road or highway, the authority shall file with the Minister of Highways a plan and description of the project or a part thereof together with a statement of the interference with the public road or highway that will occur and a statement of the manner in which the authority proposes to remedy the interference, and the project or the part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Highways.

Interference  
with  
highway

(4) The cost of rebuilding any road, highway, bridge, public work or work of The Hydro-Electric Power Commission of Ontario or any part thereof and the cost of any other work that any of the Ministers of the Crown or the Commission may require to be done under this section shall be borne by the authority, except where an agreement providing for payment thereof in some other manner has been entered into with the Crown in right of Ontario or the Commission, as the case may be. 1968, c. 15, s. 30.

Costs,  
how to be  
borne

**32.**—(1) Land vested in an authority, except works erected by an authority for the purposes of a project, is taxable for municipal purposes by levy under subsection 3 of section 302 of *The Municipal Act* upon the assessment of such land determined in each year by the Department of Municipal Affairs based on the assessed value of the land at the market value thereof in accordance with section 27 of *The Assessment Act* as if the works erected by the authority on such land had not been erected.

Assessment  
of lands of  
authority

R.S.O. 1970,  
cc. 284, 32

(2) Notwithstanding subsection 1, section 26 of *The Assessment Act* applies *mutatis mutandis* in respect of lands vested in an authority.

Assessment  
of rented  
property

(3) The Department of Municipal Affairs shall, on completion of the valuation of such land, deliver or mail to each authority concerned and to the clerk of each municipality in which any of such land is situate a notice setting out the valuation of such land in the municipality.

Valuation  
notice

(4) Any such municipality or the authority may appeal to the Ontario Municipal Board against the valuation of the land in the municipality.

Appeal

(5) A notice of appeal to the Ontario Municipal Board under subsection 4 shall be sent by the party appealing, by registered mail, to the secretary of the Board within twenty-one days after the notice of valuation has been delivered or mailed under subsection 3.

Notice of  
appeal

(6) Upon receipt of a notice of appeal, the secretary of the Ontario Municipal Board shall arrange a time and place for hearing the appeal and shall send notice thereof to all parties concerned in the appeal at least fourteen days before the hearing.

Hearing

Jurisdiction  
on appeal

(7) The Ontario Municipal Board upon appeal shall determine the amount at which the land in question shall be valued, and the decision of the Board is final and binding.

First  
assessment

(8) The assessment of land under subsection 1 shall be determined by the Department of Municipal Affairs in each year for the purpose of taxation in the following year. 1968, c. 15, s. 31 (1-8), *amended*.

Cemetery  
lands

**33.**—(1) Where the carrying out of a project will require the use of a cemetery or other place of interment of human remains, the authority shall acquire other suitable lands for the interment of the bodies contained in the cemetery or other place of interment.

Notice  
to plot  
owners

(2) The authority shall forward a notice to the owner of each lot in the cemetery or other place of interment, but, if the owner or his whereabouts is unknown, the notice shall, wherever possible, be forwarded to some other person having an interest in the plot through relationship or otherwise to a deceased person buried therein.

Publication  
of notice

(3) The authority shall also cause a notice to be published once a week for at least three weeks in a newspaper having general circulation in the locality where the cemetery or other place of interment is located, which notice shall state,

- (a) that the cemetery or other place of interment has been acquired for the purposes of the authority;
- (b) that other land, describing it, has been acquired by the authority for the purpose of reintering the bodies;
- (c) that the authority will at its own expense proceed to remove the bodies from the cemetery or other place of interment to the lands acquired for reinterment at a time not less than one month after the forwarding or third publication of the notice, whichever is the later date; and
- (d) that the owner of any plot in the cemetery or other place of interment, or any other person with the approval of the authority, may cause any body interred in the cemetery or other place of interment to be removed to any other place of interment at his own expense if he obtains permission from the authority and effects the removal within one month from the forwarding or insertion of the notice, whichever is the later date, or before such later date as the authority determines.

Authority  
to remove  
bodies

(4) The authority has full power to cause the removal of any body from such cemetery or place of interment to any lands acquired under subsection 1 notwithstanding any other Act and to authorize the removal by any other person of any such body for reinterment in any other cemetery or place of interment.

(5) Where a body is removed and reinterred, any headstone or other stone shall be removed and re-erected at the place of reinterment.

Removal of headstones

(6) The authority shall render land, including fences and buildings, acquired for the reinterment of bodies, in a fit and proper condition and shall convey the land to the owner of the cemetery or other place of interment from which the bodies were removed. 1968, c. 15, s. 32.

Conveyance of lands for reinterment

**34.**—(1) Subject to the right of an authority to use any water power created upon lands vested in it for its own uses, which does not include the marketing or sale of power, The Hydro-Electric Power Commission of Ontario has the sole right to use such water power, but The Hydro-Electric Power Commission of Ontario may consent to the use of any such water power by any person on such terms and conditions as are satisfactory to it and to the authority.

Use of water power

(2) The Hydro-Electric Power Commission of Ontario shall pay to the authority an annual, reasonable compensation for the use of any such water power used by the Commission.

Compensation for water power

(3) Where the authority and The Hydro-Electric Power Commission of Ontario are unable to agree upon the amount of compensation payable, the amount shall be determined by a committee of three members comprising a person appointed by the Minister, the chief engineer of the Commission and an engineer to be agreed upon by both of them, or, in the event that they are unable to agree, appointed by the Lieutenant Governor in Council, and the engineer so agreed upon or appointed shall act as chairman of the committee, and there is no appeal from the committee, but, after ten annual payments of compensation, the amount of compensation shall be redetermined by a like committee at the request of either the authority or the Commission.

Determination of compensation

(4) Subject to review by The Hydro-Electric Power Commission of Ontario, an authority shall charge persons who at the time of the establishment of the authority are, or thereafter become, users of power derived by them from the use of the waters of the watershed for any additional power generated from increased head or flow due to the works undertaken by the authority.

Charge for additional power

(5) This section does not apply to water power reserved to the Crown under *The Public Lands Act*. 1968, c. 15, s. 33.

When section not to apply  
R.S.O. 1970, c. 380

**35.** Where by this Act any power is conferred or duty imposed upon a municipality, or the council of a municipality, including a power or duty to raise money, such power may be exercised and such duty shall be performed by the council of the municipality without the assent of the electors. 1968, c. 15, s. 34.

Assent of electors not necessary



Contracts  
by members  
with  
authority  
voidable

**36.**—(1) If a member of an authority in his own name or in that of another and alone or jointly with another enters into a contract with or makes a purchase from or sale to the authority, the contract, purchase or sale as against the authority is voidable at the instance of the authority or the council of a municipality that is assessed for a portion of the cost of a project in respect of which the contract, purchase or sale was made.

Application  
of subs. 1

(2) Subsection 1 does not apply to a contract in relation to the participation of a member in a program of the authority for the assistance of conservation on private lands in like manner and subject to the like conditions as are applicable in the case of persons who are not members of the authority. 1968, c. 15, s. 35.

Moneys  
to be paid to  
authority

**37.** All moneys required by this Act to be raised for the purposes of an authority shall be paid to the authority, and the authority may spend such moneys as it considers proper, except that no salary, expenses or allowances of any kind shall be paid to any of the members of the authority without the approval of the Ontario Municipal Board. 1968, c. 15, s. 36.

Annual  
audit  
R.S.O. 1970,  
c. 373

**38.**—(1) Every authority shall cause its accounts and transactions to be audited annually by a person licensed under *The Public Accountancy Act*.

Auditor

(2) No person shall be appointed as auditor of an authority who is or during the preceding year was a member of the authority or who has or during the preceding year had any direct or indirect interest in any contract or any employment with the authority other than for services within his professional capacity.

Auditor's  
report

(3) An authority shall, upon receipt of the auditor's report of his examination of its accounts and transactions, forthwith forward a copy of the report to each participating municipality and to the minister. 1968, c. 15, s. 37.

Grants

**39.** Grants may be made by the Minister to any authority out of the moneys appropriated therefor by the Legislature in accordance with such conditions and procedures as may be prescribed by the Lieutenant Governor in Council. 1968, c. 15, s. 38.

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## CHAPTER 79

## The Constitutional Questions Act

**1.** The Lieutenant Governor in Council may refer to the Court of Appeal or to a judge of the Supreme Court for hearing and consideration any matter that he thinks fit, and the court or judge shall thereupon hear and consider the matter so referred. R.S.O. 1960, c. 64, s. 1. Reference to court authorized

**2.** The court or judge shall certify to the Lieutenant Governor in Council its or his opinion on the matter referred, accompanied by a statement of the reasons therefor, and, in the case of a reference to the Court of Appeal, any judge who differs from the opinion may in like manner certify his opinion and his reasons. R.S.O. 1960, c. 64, s. 2. Court to certify opinion

**3.** Where the matter relates to the constitutional validity of an Act of the Legislature or a provision thereof, the Attorney General for Canada shall be notified of the hearing in order that he may be heard if he sees fit. R.S.O. 1960, c. 64, s. 3. Notice to Attorney General for Canada

**4.** The court or judge may direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of the class, be notified of the hearing, and such persons are entitled to be heard. R.S.O. 1960, c. 64, s. 4. Notice to persons interested

**5.** Where an interest affected is not represented by counsel, the court or judge may request counsel to argue the case in such interest, and the reasonable expenses thereof shall be paid by the Treasurer of Ontario out of any money appropriated by the Legislature and applicable for that purpose. R.S.O. 1960, c. 64, s. 5. Appointment of counsel

**6.** The opinion of the court shall be deemed a judgment of the court, and an appeal lies therefrom as from a judgment in an action. R.S.O. 1960, c. 64, s. 6, *part, amended*. Appeal

**7.** Where an appeal is had to the Court of Appeal, sections 2 to 6 apply as if the original reference had been to the Court of Appeal. R.S.O. 1960, c. 64, s. 6, *part, amended*. Enactments applicable to appeals

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## CHAPTER 80

**The Construction Hoists Act****1. In this Act,**Interpre-  
tation

- (a) “chief inspector” means the chief inspector appointed for the purposes of this Act;
- (b) “construction hoist” means a mechanism for use in connection with the construction, alteration, maintenance or demolition of a building, structure or other work,
  - (i) for hoisting and lowering materials or workmen or both, and
  - (ii) equipped with a car that moves in guides during its vertical movement,and includes its hoistway and hoistway enclosure;
- (c) “Department” means the Department of Labour;
- (d) “elevator” means a mechanism as defined in *The Elevators and Lifts Act*; R.S.O. 1970,  
c. 143
- (e) “engineer” means a professional engineer as defined in *The Professional Engineers Act*; R.S.O. 1970,  
c. 366
- (f) “inspector” means an inspector appointed for the purposes of this Act, and includes the chief inspector;
- (g) “licence” means a licence granted under this Act;
- (h) “maximum capacity” means the maximum number of persons or maximum weight that a hoist is designed and constructed to carry safely as determined by the regulations;
- (i) “Minister” means the Minister of Labour;
- (j) “municipal inspector” means a person appointed by a municipality to make inspections concerning the safety of persons, buildings, structures or other works;
- (k) “operator” means a person who is stationed at the driving unit of a construction hoist and has direct control of any movement of the car of the hoist as the whole or a part of his duties;
- (l) “regulations” means the regulations made under this Act;

- (m) "user" means the person in charge of a construction hoist as owner, lessee or otherwise, but does not include an operator or attendant as such. 1960-61, c. 11, s. 1.

Where Act  
does not  
apply

**2.** This Act does not apply to,

R.S.O. 1970,  
c. 143

- (a) an elevator or lift within the meaning of *The Elevators and Lifts Act*;

R.S.O. 1970,  
c. 274

- (b) a hoist within the meaning of *The Mining Act*;

- (c) a feeding machine, a bucket conveyor, a belt, chain, scoop, roller or any similar type of material-handling device other than a skip hoist;

- (d) a hoist in or adjacent to a barn used exclusively for agricultural purposes;

- (e) any class of construction hoist excluded by the regulations. 1960-61, c. 11, s. 2.

Inspectors

**3.—**(1) The Lieutenant Governor in Council may appoint one or more inspectors to administer and enforce this Act and the regulations.

Special  
inspectors

(2) The Minister may authorize the chief inspector to engage the services of any person who holds a certificate of qualification under *The Elevators and Lifts Act* to inspect a construction hoist, and for such purpose such person shall be deemed to be an inspector and shall report forthwith to the chief inspector with respect thereto. 1960-61, c. 11, s. 3.

Certain  
persons  
disqualified

**4.** No person shall be appointed or act as an inspector who has any direct or indirect interest in the manufacture, sale, rental, installation, repair or maintenance of construction hoists or parts thereof. 1960-61, c. 11, s. 4.

Power to  
inspect

**5.—**(1) An inspector may inspect any construction hoist at any time.

Power to  
examine

(2) An inspector may investigate any matter relating to a construction hoist at any time. 1960-61, c. 11, s. 5.

Power to  
examine  
persons  
under oath

**6.** For the purpose of an inspection or an investigation under this Act, the chief inspector may, by notice in writing, require the attendance before him of any person at the time and place named in the notice and may then and there examine such person under oath regarding any matter pertaining to such inspection or investigation. 1960-61, c. 11, s. 6; 1961-62, c. 17, s. 1.

**7.** An inspector, upon production of his certificate of appointment, may enter any premises where he has reason to believe that a construction hoist is or is being installed or operated. 1960-61, c. 11, s. 7. Power to enter premises

**8.** An inspector may by notice in writing direct a user, Powers, by notice

- (a) to prepare his construction hoist, or any part of it, for inspection;
- (b) to do or to refrain from doing anything that the inspector considers necessary during an inspection;
- (c) to do or to refrain from doing, within the time specified in the notice, such things as the notice specifies to ensure compliance with this Act and the regulations;
- (d) to ensure that no person uses, enters or approaches a construction hoist, any part of which, in the opinion of the inspector, is in an unsafe condition, except for the purpose of making necessary repairs. 1960-61, c. 11, s. 8.

**9.** In the absence of an inspector, a municipal inspector, Powers of municipal inspectors

- (a) may, upon production of his certificate of appointment from the municipal council, enter any place where he has reason to believe that a construction hoist is or is being installed or operated;
- (b) may inspect any construction hoist at any time;
- (c) may by notice in writing direct a user to do or to refrain from doing, within the time specified in the notice, such things as the notice specifies to ensure compliance with this Act and the regulations;
- (d) may by notice in writing direct a user to ensure that no person uses, enters or approaches a construction hoist, any part of which, in the opinion of the municipal inspector, is in an unsafe condition, except for the purpose of making necessary repairs;
- (e) shall, upon giving a notice under clause c or d, forthwith send a copy thereof to the chief inspector;
- (f) shall, upon determining that his direction has been satisfactorily complied with by the user, notify the chief inspector forthwith in writing. 1960-61, c. 11, s. 9.

**10.** An inspector, following an inspection of a construction hoist by a municipal inspector under section 9, may, Review

- (a) direct a user in writing as set forth in section 8; and
- (b) modify or cancel, as he considers advisable, a direction made by a municipal inspector under section 9. 1960-61, c. 11, s. 10.



Installation  
of man  
hoists

**11.**—(1) No person shall commence an installation or major alteration of a construction hoist for hoisting or lowering workmen until the drawings and specifications thereof have been approved in writing by an engineer of the Department. 1960-61, c. 11, s. 11 (1); 1961-62, c. 17, s. 2.

Idem

(2) Subject to subsection 3, all drawings and specifications shall be submitted in triplicate to an engineer of the Department and shall furnish full information as to the size, composition and arrangement of the proposed installation or major alteration and the location of the construction hoist on the site on which it is to be operated.

Subsequent  
installations

(3) Before the second or any subsequent installation of a construction hoist, an engineer of the Department may approve the drawings and specifications thereof without the resubmission of all drawings and specifications thereof.

Effect of  
approval

(4) If the proposed installation or major alteration as shown and described in the drawings and specifications complies with this Act and the regulations, the drawings and specifications shall be approved in writing by an engineer of the Department and one set returned to the person who submitted them and thereupon the installation or major alteration may be proceeded with, but only in accordance with the drawings and specifications as approved. 1960-61, c. 11, s. 11 (2-4).

Installation  
of material  
hoists

**12.** No person shall commence an installation or major alteration of a construction hoist for hoisting or lowering materials until he has obtained permission in writing from the chief inspector. 1961-62, c. 17, s. 3.

Inspection  
before  
operation,  
man hoists

**13.**—(1) No construction hoist for hoisting or lowering workmen shall be put into operation after installation or major alteration until it has been inspected by an inspector.

Idem,  
material  
hoists

(2) No construction hoist for hoisting or lowering materials shall be put into operation after installation or major alteration,

(a) until it has been inspected by an inspector; or

(b) unless the chief inspector,

(i) having received at least twenty-four hours advance notice of the time when and the place where the construction hoist is to be ready for inspection, and

(ii) is satisfied that the hoist has been installed or altered under the supervision of a competent person so that it will operate safely,

gives permission to temporarily operate the construction hoist until it is inspected by an inspector. 1961-62, c. 17, s. 4.

(3) No construction hoist shall be kept in operation for more than six months unless before the expiration of the six months it has been inspected by an inspector. 1960-61, c. 11, s. 12 (2). Semi-annual inspection

**14.**—(1) The chief inspector may grant or renew a licence for a construction hoist at a specified location and site and may suspend, cancel or transfer any such licence. Licences

(2) The licence is valid only for the twelve months next following the date on which it was granted or renewed, unless sooner suspended or cancelled or the location of the construction hoist is changed. Term

(3) The licence shall be kept by the user in a conspicuous position on the construction hoist for which it is granted or, with the approval of an inspector, in a nearby position. Licence to be displayed

(4) Where a licence for a construction hoist is suspended or cancelled or has not been granted, the inspector may cause such things to be done as he considers necessary to ensure that the hoist will not be operated while the licence is suspended or cancelled or until it is granted. 1960-61, c. 11, s. 13. Inspector's powers

**15.**—(1) Any person who considers himself aggrieved by, Appeal to Minister  
(a) a direction of an inspector or a municipal inspector; or  
(b) the suspension of, the cancellation of or the refusal to grant or renew a licence by the chief inspector,

may, within ten days after the receipt of the notice containing the direction or the receipt of the notice of suspension, cancellation or refusal to grant or renew, as the case may be, appeal in writing to the Minister who shall, upon notice to all persons interested, hear the appeal and make such order as appears to him to be proper in the circumstances.

(2) Where a licence has been suspended or cancelled, the making of an appeal does not affect the suspension or cancellation pending the disposition of the appeal. 1960-61, c. 11, s. 14. Suspended licences, etc., not affected by appeal

**16.**—(1) Where a construction hoist falls freely or where an accident occurs that causes injury to any person, the user shall give notice in writing with full particulars thereof to the chief inspector within twenty-four hours thereafter. Notice of failure or accident

(2) Where an accident occurs in connection with a construction hoist that results in the death of any person or in injuries that may result in the death of any person, the user shall give notice thereof immediately after the accident by telephone or telegraph to the chief inspector, and no person shall, except for the purpose of saving life or relieving human suffering, interfere with, disturb, destroy, carry away or alter any wreckage, article or thing at the Notice where accident causes death

scene of or connected with the accident until permission so to do is given by an inspector.

Investigations of failures and accidents

(3) On receipt of a notice under subsection 1 or 2, the chief inspector shall forthwith cause such investigation to be made as he considers necessary to determine the cause of the occurrence or accident. 1960-61, c. 11, s. 15.

Obstruction of inspector

**17.** No person shall hinder or obstruct an inspector or a municipal inspector in the performance of his duties. 1960-61, c. 11, s. 16.

False statements

**18.** No person shall make any false or misleading statement in any communication, whether in writing or otherwise, to the Minister, an inspector or a municipal inspector concerning any matter under this Act or the regulations. 1960-61, c. 11, s. 17.

Compliance with Act required

**19.** No user of a construction hoist shall operate it or cause or permit it to be operated unless it complies with this Act and the regulations. 1960-61, c. 11, s. 18.

Licence required

**20.** No user of a construction hoist shall operate it or cause or permit it to be operated unless it is licensed. 1960-61, c. 11, s. 19.

Operation of unsafe hoist prohibited

**21.—(1)** No person shall operate a construction hoist or cause or permit it to be operated if he has reason to believe that it is in an unsafe condition.

Unsafe operation prohibited

(2) No person shall operate a construction hoist or cause or permit it to be operated in an unsafe manner. 1960-61, c. 11, s. 20.

Renting, etc., of construction hoists

(3) No person shall provide a construction hoist or any part thereof for use by another person under any rental, leasing or other arrangement if such hoist or part is in an unsafe condition. 1962-63, c. 21, s. 1.

Excess load prohibited

**22.** No person shall operate a construction hoist or cause or permit it to be operated with a load in excess of its maximum capacity as designated in its licence. 1960-61, c. 11, s. 21.

Exceptions to ss. 19-22

**23.** The prohibitions contained in sections 19, 20, 21 and 22 do not apply to an inspector or a municipal inspector or a person authorized by the chief inspector. 1960-61, c. 11, s. 22.

Where certificated operators required

**24.** Where a construction hoist has a driving unit that is not directly controlled by a device installed in the car or at each landing of the hoistway and the hoist is used to raise or lower persons, every operator of the hoist shall possess a certificate of qualification to operate a hoisting plant under *The Operating Engineers Act*. 1960-61, c. 11, s. 23.

**25.**—(1) A person who contravenes any of the provisions of this Act or the regulations or any direction or order made thereunder is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Offence

(2) Where a person contravenes any of the provisions of this Act or the regulations or any direction or order made thereunder on more than one day, each such day shall be deemed to constitute a separate offence. 1960-61, c. 11, s. 24.

Continuing offence

**26.** All fees collected under this Act and the regulations and all fees recovered for offences under this Act or the regulations shall be paid to the Treasurer of Ontario and form part of the Consolidated Revenue Fund. 1960-61, c. 11, s. 25.

Disposition of fees and fines

**27.**—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) classifying construction hoists for the purposes of this Act and the regulations;
- (b) defining an installation and a major alteration for the purposes of this Act and the regulations;
- (c) prescribing qualifications for persons who may be appointed as inspectors or who may make inspections under this Act and prescribing their duties;
- (d) providing for hoist attendants and prescribing their qualifications and duties;
- (e) prescribing requirements as to the form and substance of the drawings and specifications to be submitted under this Act and the qualifications of persons by whom such drawings and specifications are to be prepared and certified;
- (f) requiring the payment of fees and prescribing the amounts thereof;
- (g) prescribing the circumstances under which expenses or special fees, or both, are to be paid, and prescribing the special fees and designating the persons by whom such expenses or fees, or both, are to be paid;
- (h) prescribing the form of licences and the conditions under which licences or any class thereof may be granted, renewed, suspended, cancelled or transferred or prohibiting the transfer of licences or any class thereof;
- (i) regulating the use, location, design, construction, installation, operation, maintenance, ventilation, drainage, lighting, heating, alteration, repair, testing and inspection of construction hoists and any equipment used in connection therewith;



- (j) designating the sections of the Safety Code for Elevators, Dumbwaiters and Escalators of the Canadian Standards Association as approved by the Association in 1960 that shall be used by the engineers of the Department and the inspectors in carrying out their duties;
- (k) requiring and prescribing the form and location of notices and markings that owners shall keep in or about construction hoists;
- (l) prescribing methods of determining maximum capacity for the purpose of this Act and the regulations;
- (m) governing the conduct of persons in or about construction hoists;
- (n) excluding from this Act any class of construction hoist;
- (o) respecting any matter necessary or advisable to carry out the intent and purpose of this Act.

Idem           (2) Any word or expression used in this Act or the regulations may be defined in the regulations for the purposes of the regulations.

Idem           (3) A regulation may be limited as to time or place of application, or otherwise.

Idem           (4) A regulation may be made with respect to any one of more classes of construction hoist. 1960-61, c. 11, s. 26.

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## CHAPTER 81

**The Construction Safety Act****1. In this Act,**Interpre-  
tation

- (a) “chief officer” means the officer of the Department of Labour designated by the Deputy Minister as chief officer for the purposes of this Act;
- (b) “constructor” means a person who contracts with the owner of a project for the work thereon, and includes an owner who,
  - (i) contracts with more than one person for the work on a project, or
  - (ii) undertakes the work on a project or any part thereof;
- (c) “Deputy Minister” means the Deputy Minister of Labour;
- (d) “inspector” means a person appointed by the Lieutenant Governor in Council or by the council of a municipality for the purposes of this Act;
- (e) “local municipality” means a city, town, village, township or improvement district;
- (f) “municipality” means a county, city, town, village, township or improvement district;
- (g) “owner” means the person for whose direct benefit a project exists upon its completion;
- (h) “prescribed” means prescribed by the regulations;
- (i) “project” means,
  - (i) a building or other structure that is being constructed, altered, repaired, demolished or moved,
  - (ii) a trench as defined in *The Trench Excavators’ Protection Act* that is being excavated, altered, repaired or back-filled, R.S.O. 1970, c. 469
  - (iii) a street or highway that is being built, altered, repaired, demolished or moved,
  - (iv) a well, other than an oil or gas well, that is being dug, drilled, altered, repaired or back-filled,

R.S.O. 1970,  
c. 117

and includes all appurtenances thereof, but does not include a shaft, tunnel, caisson or coffer dam to which any regulation under subsection 1 of section 11 of *The Department of Labour Act*, as amended or remade from time to time, applies;

- (j) "regulations" means the regulations made under this Act;
- (k) "safety" means freedom from bodily injury or freedom from damage to health;
- (l) "subcontractor" means a person who contracts with a constructor for the work on part of a project, and includes a person who contracts with a subcontractor for work on a part of the project. 1961-62, c. 18, s. 1; 1962-63, c. 22, s. 2; 1965, c. 19, s. 1.

Where Act  
applies

R.S.O. 1970,  
c. 118

**2.** Subject to section 3, this Act and the regulations apply to every project, including any project of the Crown or of any agency of the Crown or of any municipality as defined in *The Department of Municipal Affairs Act*. 1961-62, c. 18, s. 2.

Where Act  
does not  
apply

R.S.O. 1970,  
c. 274

- 3.—**(1) This Act and the regulations do not apply to a project,
- (a) while the work is being done solely by the owner in person;
  - (b) to which *The Mining Act* applies; or
  - (c) that is situate on a farm and that is to be used or is used only for farming purposes and, notwithstanding clause a, the work is being done solely by the owner in person with or without the assistance of his farm help. 1961-62, c. 18, s. 3; 1965, c. 19, s. 2.

Additional  
exemptions

(2) The Lieutenant Governor in Council may exempt any class of projects or any part of a project in any such class from this Act or the regulations or any provision of either of them. 1962-63, c. 22, s. 3.

Appoint-  
ment and  
duties of  
inspectors,  
provincial

**4.** The Lieutenant Governor in Council shall appoint one or more persons as inspectors who shall,

- (a) when requested, advise and assist municipal officials in the selection of suitable persons for appointment as municipal inspectors;
- (b) instruct, advise and assist municipal inspectors in the carrying out of their duties under this Act; and
- (c) enforce this Act and the regulations,
  - (i) in territory without municipal organization, and

- (ii) in every municipality that is in a territorial district and that has a population of 5,000 or less according to the last municipal census. 1961-62, c. 18, s. 4; 1962-63, c. 22, s. 4.

**5.—(1)** The council,

- (a) of every local municipality that has a population of more than 50,000 according to the last municipal census;
- (b) of every city, separated town and separated township;
- (c) of every municipality that is in a territorial district and that has a population of more than 5,000 according to the last municipal census and that is not within clause a or b; and
- (d) of every area municipality in The Municipality of Metropolitan Toronto,

Appointment and duties of inspectors of local municipality

shall appoint one or more persons as inspectors who shall enforce this Act and the regulations in the municipality. 1961-62, c. 18, s. 5 (1); 1962-63, c. 22, s. 5.

(2) Every local municipality to which subsection 1 applies that is within a county for municipal purposes shall, for the purposes of this Act, cease to form part of the county for municipal purposes. 1961-62, c. 18, s. 5 (2).

Idem

**6.** The council of every county shall appoint one or more inspectors who shall enforce this Act and the regulations in the local municipalities that, for the purposes of this Act, form part of the county for municipal purposes. 1961-62, c. 18, s. 6.

Appointment and duties of inspectors of counties

**7.** The councils of two or more municipalities that are required by this Act to appoint one or more persons as inspectors may enter into an agreement under which the inspector or inspectors of one of them will enforce this Act and the regulations in the other or others upon such terms and conditions as are agreed upon. 1961-62, c. 18, s. 7 (1); 1965, c. 19, s. 3 (1).

Appointment and duties of inspectors, joint agreements

**8.** When a municipal inspector is appointed or his appointment is terminated, the clerk of the municipality shall, within seven days thereafter, notify the Deputy Minister of the name and address of the inspector and the date of his appointment or the date of the termination of his appointment, as the case may be. 1961-62, c. 18, s. 10.

Notification of appointment and termination

**9.—(1)** There shall be issued to every inspector a certificate of appointment signed by the clerk of the municipality or the Deputy Minister, as the case may be.

Certificate of appointment

- Production of certificate (2) When carrying out any of his duties under this Act, an inspector shall produce his certificate of appointment, if such is requested. 1961-62, c. 18, s. 11.
- Power of entry **10.**—(1) An inspector may enter any land or premises at any reasonable time for the purpose of carrying out any of his duties under this Act. 1961-62, c. 18, s. 12.
- Experts (2) An inspector, in the carrying out of his duties under this Act, may be accompanied by any person who has special or expert knowledge of any matter in question. 1962-63, c. 22, s. 6.
- Power to require information **11.**—(1) An inspector for the purpose of carrying out his duties under this Act may require the production of the drawings and specifications of a project or any part thereof, and may inspect them and may require information from any person concerning any matter related to a project. 1961-62, c. 18, s. 13 (1); 1965, c. 19, s. 5 (1).
- False information, etc. (2) No person shall neglect or refuse to produce drawings and specifications as required by an inspector under subsection 1, and no person shall furnish an inspector with false information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act. 1961-62, c. 18, s. 13 (2); 1965, c. 19, s. 5 (2).
- Obstructing **12.** No person shall obstruct an inspector in the exercise of his duties under this Act. 1961-62, c. 18, s. 14.
- Duty to facilitate inspections **13.** Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination or inquiry by an inspector in the exercise of his powers and duties under this Act. 1961-62, c. 18, s. 15; 1962-63, c. 22, s. 7.
- Notice of project, where building permit required **14.**—(1) The official of a municipality who issues a building permit for a project shall, within seven days of the issue thereof, notify in writing the inspector appointed to enforce this Act in that municipality,  
(a) of the name and address of the person to whom the permit was given;  
(b) of the location and nature of the project; and  
(c) of the estimated cost of the project.
- Idem, where no building permit required (2) Where no municipal building permit for a project is required, the constructor of a project shall, before commencing work on the project, notify in writing the inspector appointed to enforce this Act in the locality in which the project is located,  
(a) of his name and address;  
(b) of the location and nature of the project; and  
(c) of the estimated cost of the project. 1965, c. 19, s. 6.



**15.**—(1) Every municipal inspector or, where there is more than one, the senior in appointment, shall prepare and submit to his council, or, where an agreement under section 7 is in effect, to the councils of the municipalities who are parties to the agreement, a report on or before the 31st day of January of each year in respect of the previous calendar year, and such report shall contain,

Annual  
reports by  
municipal  
inspectors

- (a) the number of inspectors employed by the municipality;
- (b) the number of inspections made;
- (c) the number of informations laid for offences under this Act;
- (d) the nature of such offences and the number of convictions made with respect thereto and the penalties imposed;
- (e) the number of persons fatally injured on projects and the causes of such fatalities;
- (f) the number of orders made under section 16 and the number of work stoppages ordered; and
- (g) such other matters as are prescribed. 1961-62, c. 18, s. 16.

(2) Every municipal inspector who submits a report under subsection 1 shall forthwith send a copy thereof to the Deputy Minister. 1962-63, c. 22, s. 9.

Copy of  
report to  
Deputy  
Minister

(3) Every municipal inspector or, where there is more than one, the senior in appointment shall, immediately upon the disposition of each charge alleging a breach of this Act or the regulations in the municipality, submit to the Deputy Minister a report in the prescribed form of the disposition of the charge. 1965, c. 19, s. 7.

Report  
as to  
offences

**16.**—(1) Where an inspector is of opinion that any provision of this Act or the regulations is being contravened, he may give to the person whom he believes to be the contravener such order in writing as he considers necessary to ensure compliance with this Act and the regulations, and such order shall specify that it shall be carried out forthwith or before the expiry of such period as is specified therein, and,

Stop-work  
orders

- (a) where the order specifies that it be carried out forthwith, all work on the project or the part thereof specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with to the satisfaction of an inspector; or
- (b) where the order specifies the period within which it is to be carried out and it is not carried out within that period, all work on the project or the part thereof



specified in the order, other than such work as is necessary to carry out the order with safety, shall stop until the order is complied with to the satisfaction of an inspector. 1961-62, c. 18, s. 17 (1); 1965, c. 19, s. 8 (1, 2).

Posting  
of copy

(2) Where an inspector gives an order under subsection 1, he may affix a copy thereof to the project or any part thereof, and no person, except the inspector, shall remove such copy unless authorized by the inspector. 1961-62, c. 18, s. 17 (2).

Duty to  
comply

(3) Every person to whom an order under this Act is given shall comply with it in accordance with its terms. 1965, c. 19, s. 8 (3).

Restraining  
orders

**17.—**(1) Where a person is charged with failure to comply with the order of an inspector given under section 16, a judge or local judge of the Supreme Court may, upon the application of the inspector who gave the order and upon two clear days notice to the accused person, grant an order restraining the accused person and any other person having knowledge of the restraining order from continuing the work specified in the restraining order until the final disposition of the charge, other than such work as is necessary to carry out the inspector's order.

Idem

(2) A restraining order may be made under subsection 1 *ex parte* for a period not exceeding five days.

Idem

(3) A restraining order under this section may be entered and enforced in the same manner as an order or judgment of the Supreme Court. 1965, c. 19, s. 9.

Duty of  
constructors

**18.—**(1) A constructor shall ensure that the equipment, materials and safeguards prescribed by the regulations are provided on the project.

Idem

(2) A constructor shall ensure that such equipment, materials and safeguards as are provided by him are maintained in good condition and used as prescribed.

Idem

(3) In addition to compliance with subsections 1 and 2, a constructor shall take every precaution that is reasonable in the circumstances to ensure the safety of all persons on the project.

Duty of  
sub-  
contractors

(4) Every subcontractor shall ensure that such equipment, materials and safeguards as are provided by him are maintained in good condition and used as prescribed.

Idem

(5) In addition to compliance with subsection 4, a subcontractor shall take every precaution that is reasonable in the circumstances to ensure the safety of all persons on the part or parts of the project under his direct control. 1965, c. 19, s. 10.

**19.**—(1) No person under the age of sixteen years shall work on a project. Minimum age

(2) No person shall employ a person under the age of sixteen years on a project. Idem

(3) Notwithstanding subsections 1 and 2, a person who has attained the age of fifteen years may be employed in such parts of a project as are designated by the regulations. Idem 1965, c. 19, s. 11.

**20.** Every person on a project who, Offences

(a) by his conduct endangers his safety or that of other persons; or

(b) fails to use or wear protective devices or clothing when required by his employer,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$500. 1961-62, c. 18, s. 19; 1965, c. 19, s. 12.

**21.** No person shall provide any machine, vehicle, tool or equipment, or any part thereof, for use by a person on a project under any rental, leasing or other arrangement if such machine, vehicle, tool, equipment or part is in an unsafe condition. Rented machine, etc., to be safe 1962-63, c. 22, s. 10.

**22.**—(1) Where an accident, industrial disease, explosion or fire causes bodily injury to a person on a project whereby he is prevented or is likely to be prevented for three days from working and such occurrence does not require notice to an inspector under section 23, a notice in writing of the occurrence shall be given to the chief officer by the person's employer stating, Bodily injury

(a) the person's name, age and address; and

(b) the location, time, nature and cause of the occurrence.

(2) Such notice shall be given within four days after the occurrence. Notice

(3) A true copy of the notice required to be given by an employer to the Workmen's Compensation Board by section 115 of *The Workmen's Compensation Act* may be delivered or mailed to the chief officer as sufficient notice under subsection 1. Idem 1965, c. 19, s. 13. R.S.O. 1970, c. 505

**23.**—(1) Where a workman on a project is killed or is critically injured, his employer shall immediately notify an inspector by telephone, telegram or in person of the occurrence, and shall, within forty-eight hours after the occurrence, send him a written report of the circumstances of the occurrence. Fatal accidents 1961-62, c. 18, s. 20 (1); 1962-63, c. 22, s. 11 (1).

Notice  
to chief  
officer

(2) An inspector who receives a notice under subsection 1 shall,

- (a) immediately upon receipt thereof, notify the chief officer by telephone, telegram or in person of the occurrence mentioned in the notice;
- (b) immediately upon receipt of the employer's report under subsection 1, send a copy thereof to the chief officer; and
- (c) forthwith investigate the circumstances of the occurrence and, where practicable, determine the cause or causes of the occurrence, and report in writing thereon to the chief officer with his recommendations for preventing a repetition of the occurrence and, where the inspector is a municipal inspector, send a copy of the report to the council of his municipality. 1965, c. 19, s. 14.

Disturbance  
of wreckage

(3) Where a person on a project is killed or is critically injured, no person shall, except for the purpose of,

- (a) saving life or relieving human suffering; or
- (b) maintaining an essential public utility service or a public transportation system,

interfere with, disturb, destroy, alter or carry away any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by an inspector. 1962-63, c. 22, s. 11 (3).

Municipal  
by-laws,  
conflict, etc.

**24.** Nothing in this Act affects any authority that a municipality has to pass by-laws relating to matters mentioned in this Act or the regulations or affects any such by-law in so far as the by-law imposes additional or more stringent requirements than those imposed by this Act or the regulations, and, in the event of conflict between any of the provisions of a by-law and any of the provisions of this Act and the regulations, this Act and the regulations prevail. 1961-62, c. 18, s. 21.

General  
penalty

**25.—(1)** Every person who contravenes any provision of this Act or the regulations is guilty of an offence under this Act and on summary conviction, where a penalty for such offence is not otherwise provided, is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than twelve months, or to both. 1961-62, c. 18, s. 22.

Penalty for  
failure to  
comply with  
stop-work  
order

(2) Every person to whom an order is given under section 16 who fails to comply with it in accordance with its terms is guilty of an offence and on summary conviction is, in addition to the penalties mentioned in subsection 1, liable to a fine of not more than \$100 per day for every day upon which the offence continued after such order was given.

(3) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed is <sup>Penalty for corporation</sup> \$5,000 and not as provided therein. 1965. c. 19, s. 15.

**26.**—(1) The Lieutenant Governor in Council may make such <sup>Regulations</sup> regulations as are considered necessary or advisable to ensure the safety of workmen on projects. 1961-62, c. 18, s. 24 (1).

(2) Without limiting the generality of subsection 1, the Lieu- <sup>Idem</sup> tenant Governor in Council may make regulations,

- (a) defining any expression used in this Act or the regulations;
  - (b) prescribing standards of qualifications of inspectors;
  - (c) prescribing matters, in addition to those set out in section 15, that shall be included in the annual reports of municipal inspectors;
  - (d) designating parts of projects for the purpose of section 19;
  - (e) requiring and prescribing the notices in one or more languages that shall be posted on projects by the owners thereof or the employers of workmen thereon;
  - (f) prescribing the records that shall be kept by employers;
  - (g) prescribing forms and providing for their use. 1961-62, c. 18, s. 24 (2); 1965, c. 19, s. 16.
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## CHAPTER 82

**The Consumer Protection Act****1. In this Act,**Interpre-  
tation

- (a) “actually received” means the sum of money received by the borrower from the lender that can be used by the borrower without any restrictions on its use imposed by the lender;
- (b) “borrower” means a person who receives credit;
- (c) “buyer” means a person who purchases goods for consumption or services under an executory contract and includes his agent, but does not include a person who buys in the course of carrying on business or an association of individuals, a partnership or a corporation;
- (d) “cost of borrowing” means,
  - (i) in the case of credit other than variable credit, the amount by which,
    - a. the total sum that the borrower is required to pay if the payments required are made as they become due, including all such sums regardless of the purpose or reason for the payment or the time of the payment,exceeds,
  - b. the sum actually received in cash by the borrower or, where the lender is a seller, the amount of the cash price of the goods or services less the sums, if any, actually paid as a down payment or credited in respect of a trade-in or paid or credited for any other reason plus, in each case, insurance or official fees, if any, actually paid by the lender,
  - (ii) in the case of variable credit, the charges made in respect of the extension of the variable credit;
- (e) “credit” means credit for which the borrower incurs a cost of borrowing and,
  - (i) given under an agreement between a seller and a buyer to purchase goods or services by which all or part of the purchase price is payable after the agreement is entered into, or
  - (ii) given by the advancement of money,

but does not include credit given on the security of a mortgage of real property;

- (f) "Department" means the Department of Financial and Commercial Affairs;
- (g) "Director" means the Director of the Consumer Protection Division of the Department of Financial and Commercial Affairs;
- (h) "executory contract" means a contract between a buyer and a seller for the purchase and sale of goods or services in respect of which delivery of the goods or performance of the services or payment in full of the consideration is not made at the time the contract is entered into;
- (i) "goods" means personal property;
- (j) "itinerant seller" means a seller whose business includes soliciting, negotiating or arranging for the signing by a buyer, at a place other than the seller's permanent place of business, of an executory contract for the sale of goods or services, whether personally or by his agent or employee;
- (k) "lender" means a person who extends credit;
- (l) "Minister" means the Minister of Financial and Commercial Affairs;
- (m) "official fee" means a fee that is required to be paid by or under a statute of Ontario or Canada;
- (n) "prescribed" means prescribed by this Act or the regulations;
- (o) "purchase price" means the total obligation payable by the buyer under an executory contract;
- (p) "registered" means registered under this Act;
- (q) "Registrar" means the Registrar of the Consumer Protection Bureau;
- (r) "regulations" means the regulations made under this Act;
- (s) "seller" means a person who is in the business of selling goods or services to buyers, and includes his agent;
- (t) "trade-in" means consideration given by a buyer in a form other than money or an obligation to pay money;
- (u) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*;
- (v) "variable credit" means credit made available under an agreement whereby the lender agrees to make credit available to be used from time to time, at the option of

the borrower, for the purpose of the purchase from time to time of goods or services, and, without limiting the generality of the foregoing, includes credit arrangements commonly known as revolving credit accounts, budget accounts, cyclical accounts and other arrangements of a similar nature. 1966, c. 23, s. 1; 1967, c. 13, s. 1; 1968, c. 17, s. 1; 1968-69, c. 14, s. 1.

**2.** This Act does not apply to the sale of a public utility as defined in section 1 of *The Public Utilities Act* or to any charge for the transmission, distribution or storage of gas as defined in *The Ontario Energy Board Act* where such charge has been approved by the Ontario Energy Board. 1966, c. 23, s. 2.

Application  
R.S.O. 1970,  
cc. 390, 312

PART I

REGISTRATION OF ITINERANT SELLERS

**3.** The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Part under the supervision of the Director. 1968-69, c. 14, s. 2, *part*.

Duties of  
Registrar

**4.—(1)** No person shall carry on business as an itinerant seller unless he is registered by the Registrar under this Act.

Registra-  
tion  
required

(2) A registered itinerant seller shall not carry on business in a name other than the name in which he is registered or from a place of business other than that authorized by the registration.

Name and  
place of  
business

(3) No person shall publish or cause to be published in writing any representation that he is registered under this Act. 1968-69, c. 14, s. 2, *part*.

Representa-  
tion

**5.—(1)** An applicant is entitled to registration or renewal of registration except where,

Granting  
of reg-  
istration

- (a) his financial responsibility or record of past conduct is such that it would not be in the public interest for the registration or renewal to be granted;

(b) where the applicant is a corporation, its financial responsibility or the record of past conduct of the corporation or its officers or directors is such that it would not be in the public interest for the registration or renewal to be granted; or

(c) the applicant is or proposes to be in contravention of this Act or the regulations.

(2) A registration is subject to such terms and conditions as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1968-69, c. 14, s. 2, *part*.

Conditions  
of reg-  
istration

Revocation

**6.**—(1) The Tribunal may, upon the application of the Registrar, suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a condition of the registration.

Voluntary  
cancellation

(2) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request of the registrant in writing in the prescribed form surrendering his registration. 1968-69, c. 14, s. 2, *part*.

Hearing by  
Tribunal

**7.**—(1) Where the Registrar refuses to issue or renew a registration or applies to the Tribunal to suspend or revoke a registration, he shall serve notice upon the applicant or registrant, together with written reasons for his refusal or for the proposed suspension or revocation, and the applicant or registrant may, by written notice served upon the Registrar and the Tribunal within fifteen days after the service of the notice of refusal or proposed suspension or revocation, require a hearing by the Tribunal.

Stay of  
refusal to  
renew

(2) Where the Registrar refuses to renew a registration, the applicant shall be deemed to continue to be registered until an order is made by the Tribunal or until the time for requiring a hearing by the Tribunal expires, whichever occurs first.

Notice of  
hearing

(3) The Tribunal shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Idem

(4) The notice of hearing shall contain,

- (a) a statement of the time and place of the hearing;
- (b) a statement of the statutory power under which the hearing is being held;
- (c) a reference to the rules of procedure applicable to the hearing;
- (d) a concise statement of the issues; and
- (e) a statement that, if a party who has been duly notified does not attend at the hearing, the Tribunal may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 14, s. 2, *part*.

Parties

**8.**—(1) The Registrar, the applicant or registrant and any other person specified by the Tribunal are parties to the hearing.

Failure  
to attend

(2) If a person who has been duly notified of a hearing does not attend, the Tribunal may proceed in his absence. 1968-69, c. 14, s. 2, *part*.

**9.**—(1) A hearing may be adjourned from time to time by the Tribunal on reasonable grounds, Adjournment

(a) on its own motion; or

(b) on the motion of any party to the hearing.

(2) The Tribunal may, in the prescribed form, command the attendance before it of any person as a witness. Subpoenas

(3) The Tribunal may require any person, Oaths

(a) to give evidence on oath at a hearing; and

(b) to produce such documents and things as the Tribunal requires.

(4) An applicant or registrant giving evidence under oath before the Tribunal shall be advised of his right to object to answer any question under section 9 of *The Evidence Act* and section 5 of the *Canada Evidence Act*. Objection  
re self-in-  
crimination  
R.S.O. 1970,  
c. 151  
R.S.C. 1952,  
c. 307

(5) The Tribunal may admit evidence not given under oath. Unsworn  
testimony

(6) Any person who, without lawful excuse, Offences

(a) on being duly summoned as a witness before the Tribunal, makes default in attending; or

(b) being in attendance as a witness before the Tribunal refuses to take an oath legally required by the Tribunal to be taken, or to produced any document or thing in his power or control legally required by the Tribunal to be produced by him, or to answer any question to which the Tribunal may legally require an answer; or

(c) does any other thing that would, if the Tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence punishable under subsection 7.

(7) The Tribunal may certify an offence under subsection 6 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1968-69, c. 14, s. 2, *part*. Enforce-  
ment

**10.** Any party may be represented before the Tribunal by counsel or agent. 1968-69, c. 14, s. 2, *part*. Right of  
party to  
counsel



Right of  
witness to  
counsel

**11.**—(1) Any witness may be represented before the Tribunal by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.

Exclusion  
of counsel

(2) Where a hearing is *in camera*, a counsel or agent for a witness shall be excluded except when that witness is giving evidence. 1968-69, c. 14, s. 2, *part*.

Right of  
parties at  
hearing

**12.** At a hearing before the Tribunal, any party may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions. 1968-69, c. 14, s. 2, *part*.

Hearings  
to be open  
to public;  
exceptions

**13.**—(1) All hearings shall be open to the public except where the Tribunal finds that,

- (a) public security may be involved; or
- (b) intimate financial or personal circumstances of any person may be disclosed,

in which case the Tribunal shall hold the hearing as to any such matters *in camera*.

Idem

(2) Notwithstanding the exceptions mentioned in clauses *a* and *b* of subsection 1, the Tribunal may, if in its opinion the public interest so requires, proceed without regard to such exceptions. 1968-69, c. 14, s. 2, *part*.

Release of  
exhibits

**14.** Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Tribunal within a reasonable time after the matter in issue has been finally determined. 1968-69, c. 14, s. 2, *part*.

Specialized  
knowledge

**15.**—(1) The Tribunal may consider in reaching its decision any facts and information that are within its knowledge and that have not been introduced in evidence.

Notice

(2) The Tribunal shall notify all parties to a proceeding of any facts or information referred to in subsection 1 and shall, before reaching its decision, give the parties an opportunity to contest before it any such facts or information.

Contents  
and service  
of notice

(3) The Tribunal shall cause a notice containing a statement of such facts or information to be served upon all the parties. 1968-69, c. 14, s. 2, *part*.

Record

**16.** All oral evidence received by the Tribunal shall be taken down in writing and together with,

- (a) the notice of hearing;

- (b) any rulings or orders made in the course of the proceedings of the Tribunal;
- (c) any written submissions received by the Tribunal; and
- (d) the decision and the reasons therefor,

form the record. 1968-69, c. 14, s. 2, *part*.

**17.—**(1) The Tribunal may, after the hearing,

Decision  
of Tribunal

- (a) where the hearing is an appeal from a decision of the Registrar, by order confirm or alter the decision of the Registrar or direct the Registrar to do any act the Registrar is authorized to do under this Act and as the Tribunal considers proper and for this purpose the Tribunal may substitute its opinion for that of the Registrar;
- (b) where the hearing is an application for suspension or revocation of a registration, dismiss the application or order that the registration be suspended or revoked,

and the Tribunal may attach such terms and conditions to its order or to the registration as it considers appropriate.

(2) The final decision of the Tribunal, including the reasons therefor, shall be in writing.

Decision  
to be in  
writing

(3) The reasons for the final decision shall contain,

Contents of  
reasons for  
decision

- (a) the findings of fact on the evidence and any information or knowledge used in reaching the decision;
- (b) any agreed findings of facts; and
- (c) the conclusions of law based on the findings mentioned in clauses *a* and *b*.

(4) The Tribunal shall cause to be served on the parties a copy of its final decision, including the reasons therefor, and a notice stating the rights of appeal. 1968-69, c. 14, s. 2, *part*.

Notice of  
decision

**18.** A certified copy of the final decision of the Tribunal, exclusive of the reasons therefor, may be filed in the office of the Registrar of the Supreme Court whereupon it shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1968-69, c. 14, s. 2, *part*.

Enforce-  
ment of  
decisions

**19.—**(1) Any party to the hearing before the Tribunal may appeal from the decision of the Tribunal to the Court of Appeal and the practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court.

Appeal to  
Court of  
Appeal

(2) The Minister may designate counsel to assist the court upon the hearing of an appeal under this section.

Counsel

Decision  
of court

(3) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Tribunal or direct the Registrar or the Tribunal to do any act the Registrar or the Tribunal is authorized to do under this Act and as the court considers proper, and the court may substitute its opinion for that of the Registrar and the Tribunal and may exercise the same powers as it exercises on an appeal from a judge of the High Court sitting without a jury. 1968-69, c. 14, s. 2, *part*.

Stay

**20.** An order of the Tribunal refusing to renew or suspending or revoking a registration shall take effect immediately, but the Tribunal may grant a stay until the order becomes final. 1968-69, c. 14, s. 2, *part*.

Further  
applications

**21.** A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. 1968-69, c. 14, s. 2, *part*.

Investiga-  
tion of  
complaints

**22.**—(1) Where the Registrar receives a complaint in respect of an itinerant seller and so requests in writing, the itinerant seller shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires.

Idem

(2) The request under subsection 1 shall indicate the nature of the inquiry involved.

Idem

(3) For the purposes of subsection 1, the Registrar or any person designated in writing by him may at any reasonable time enter upon the business premises of the itinerant seller to make an inspection in relation to the complaint. 1968-69, c. 14, s. 2, *part*.

Inspection

**23.**—(1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of a registered itinerant seller to make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of trust accounts are being complied with.

Idem

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as an itinerant seller while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 4. 1968-69, c. 14, s. 2, *part*.

Powers on  
inspection

**24.**—(1) Upon an inspection under section 22 or 23, the person inspecting,

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person being inspected; and
- (b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected.

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. 1968-69, c. 14, s. 2, *part*. Admissibility of copies

**25.**—(1) Every itinerant seller shall, within five days after the event, notify the Registrar in writing of, Notice of changes

- (a) any change in his address for service;
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership.

(2) The Registrar shall be deemed to be notified under subsection 1 on the day on which he is actually notified or, where the notification is by mail, on the day of mailing. 1968-69, c. 14, s. 2, *part*. Idem

**26.**—(1) Every itinerant seller shall, when required by the Registrar with the approval of the Director, file a financial statement showing the matters specified by the Registrar and signed by the itinerant seller and certified by a person licensed under *The Public Accountancy Act*. Financial statements

(2) The information contained in a financial statement filed under subsection 1 is confidential and no person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. 1968-69, c. 14, s. 2, *part*. R.S.O. 1970, c. 373  
Statement confidential

**27.**—(1) Any notice or order required to be given or served under this Part or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Department. Service



- Idem (2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing.
- Exception (3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal. 1968-69, c. 14, s. 2, *part*.
- Restraining orders **28.**—(1) Where it appears to the Director that any person does not comply with any provision of this Part, the regulations or an order made under this Part, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.
- Appeal (2) An appeal lies to the Court of Appeal from an order made under subsection 1. 1968-69, c. 14, s. 2, *part*.
- Offences **29.**—(1) Every person who, knowingly,
- (a) furnishes false information in any application under this Part or in any statement or return required to be furnished under this Part or the regulations; or
  - (b) fails to comply with any order, direction or other requirement made under this Part or section 47,
- is guilty of an offence punishable under section 48, but no proceeding under clause *a* shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.
- Certificate as evidence (2) A statement as to,
- (a) the registration or non-registration of any person;
  - (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
  - (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or
  - (d) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, document or material,
- purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1968-69, c. 14, s. 2, *part*.



## PART II

## EXECUTORY CONTRACTS

**30.** This Part applies to executory contracts for the sale of goods or services where the purchase price, excluding the cost of borrowing, exceeds \$50. 1966, c. 23, s. 15. Application of Part

**31.—**(1) Every executory contract, other than an executory contract under an agreement for variable credit, shall be in writing and shall contain, Form of executory contract

- (a) the name and address of the seller and the buyer;
- (b) a description of the goods or services sufficient to identify them with certainty;
- (c) the itemized price of the goods or services and a detailed statement of the terms of payment;
- (d) where credit is extended, a statement of any security for payment under the contract, including the particulars of any negotiable instrument, conditional sale agreement, chattel mortgage or any other security;
- (e) where credit is extended, the statement required to be furnished by section 36;
- (f) any warranty or guarantee applying to the goods or services and, where there is no warranty or guarantee, a statement to this effect; and
- (g) any other matter required by the regulations. 1966, c. 23, s. 16 (1); 1968, c. 17, s. 2 (1).

(2) An executory contract is not binding on the buyer unless the contract is made in accordance with this Part and the regulations and is signed by the parties, and a duplicate original copy thereof is in the possession of each of the parties thereto. 1966, c. 23, s. 16 (2). Validity

(3) Where the amount to be paid by a buyer under an executory contract is determined after an allowance for a trade-in and is stated in the contract to be subject to adjustment after the existence or amount of liens against the trade-in is ascertained or confirmed, the statement of the terms of payment and the statement of the cost of credit shall be based upon the amount as determined upon the information provided by the buyer but, upon any subsequent adjustment, the percentage rate by which the cost of borrowing is expressed, the total number of instalments required to pay the total indebtedness or the price shown in the contract shall not be changed. 1968, c. 17, s. 2 (2). Allowance for trade-in subject to adjustment

Deposits  
in advance

**32.** Where a trade-in is delivered or money is paid, whether by way of deposit or otherwise, on account of the proposed purchase of goods or services but no binding contract is entered into in respect of the goods and no delivery of the goods or any part thereof has been made to the buyer or no performance of the services has been made, the seller shall upon the request of the buyer return such trade-in or refund in full the moneys so paid, as the case may be. 1966, c. 23, s. 17.

Rescission  
of certain  
executory  
contracts  
within  
two days

**33.**—(1) Where a seller solicits, negotiates or arranges for the signing by a buyer of an executory contract at a place other than the seller's permanent place of business, the buyer may rescind the contract by delivering a notice of rescission in writing to the seller within two days after the duplicate original copy of the contract first comes into the possession of the buyer, and the buyer is not liable for any damages in respect of such rescission. 1966, c. 23, s. 18 (1); 1968, c. 17, s. 3 (1).

Duties  
upon  
rescission

(2) Where a buyer rescinds a contract under subsection 1,

- (a) the buyer shall immediately return any goods received under the contract and the seller shall bear the expense of the return, not exceeding the expense of returning the goods from the place where the buyer received their delivery; and
- (b) the seller shall return any moneys received or realized in respect of the contract, whether from the buyer or any other person, and shall return any trade-in received under the contract. 1966, c. 23, s. 18 (2); 1968, c. 17, s. 3 (2).

Trade-ins

(3) Where part of the consideration for the sale of goods is a trade-in, the title to the trade-in does not pass to the seller until the two-day period mentioned in subsection 1 has expired without rescission of the contract.

Delivery  
of notice

(4) A notice of rescission may be delivered personally or sent by registered mail addressed to the person to whom delivery is required to be made at the address shown in the contract, and delivery by registered mail shall be deemed to have been made at the time of mailing. 1966, c. 23, s. 18 (3, 4).

Lien on  
other goods  
not enforce-  
able

**34.** Any provision in any executory contract or in any security agreement incidental thereto under which the seller may acquire title to, possession of or any rights in any goods of the buyer, other than the goods passing to the buyer under the contract, is not enforceable. 1966, c. 23, s. 19.

**35.**—(1) Where a buyer under an executory contract has paid two-thirds or more of the purchase price of the goods as fixed by the contract, any provision in the contract, or in any security agreement incidental thereto, under which the seller may retake possession of or resell the goods upon default in payment by the buyer is not enforceable except by leave of a judge of a county or district court.

No re-  
possession  
after two-  
thirds paid  
except by  
leave of  
judge

(2) Upon an application for leave under subsection 1, the judge may, in his absolute discretion, grant or refuse leave or grant leave upon such terms and conditions as he considers advisable. 1966, c. 23, s. 20.

Powers of  
judge

### PART III

#### CREDIT TRANSACTIONS

**36.** Except as provided in section 37, every lender shall furnish to the borrower, before giving the credit, a clear statement in writing showing,

Disclosure  
of cost of  
borrowing

- (a) the sum,
  - (i) expressed as one sum in dollars and cents, actually received in cash by the borrower, plus insurance or official fees, if any, actually paid by the lender, or
  - (ii) where the lender is a seller, being the amount of the cash price of the goods or services, including any insurance or official fees;
- (b) where the lender is a seller, the sums, if any, actually paid as a down payment or credited in respect of a trade-in, or paid or credited for any other reason;
- (c) where the lender is a seller, the amount by which the sum stated under subclause ii of clause *a* exceeds the sum stated under clause *b*;
- (d) the cost of borrowing expressed as one sum in dollars and cents;
- (e) the percentage that the cost of borrowing bears to the sum stated,
  - (i) under subclause i of clause *a*, where the lender is not a seller, or
  - (ii) under clause *c*, where the lender is a seller,
 expressed as an annual rate applied to the unpaid balance thereof from time to time, calculated and expressed in the manner prescribed by the regulations;
- (f) the amount, if any, charged for insurance;
- (g) the amount, if any, charged for official fees; and

- (h) the basis upon which additional charges are to be made in the event of default. 1966, c. 23, s. 21; 1967, c. 13, s. 2.

Interpre-  
tation

**37.**—(1) In this section, “period” means a period of time of not less than four weeks and not more than five weeks in duration. 1966, c. 23, s. 22 (1).

Variable  
credit

(2) A lender extending variable credit shall.

- (a) before agreeing to extend variable credit, furnish the borrower with a clear statement in writing setting forth the cost of borrowing in respect of the unpaid balances from time to time,
- (i) stated as an annual percentage, or scale of annual percentages, of such balance charged at the end of each period, subject to a minimum dollars-and-cents charge, if any, and
  - (ii) stated in dollars and cents in a schedule of fixed amounts of outstanding balances, and the corresponding charges for the cost of borrowing; and
- (b) at the end of each period during the extension of credit, furnish the borrower with a clear statement in writing showing,
- (i) the outstanding balance in the account of the borrower at the beginning of the period,
  - (ii) the amount and date of each extension of credit to the borrower during the period and the identity of the goods or services in respect of which the credit was extended,
  - (iii) the amount of each sum received or credited to the account of the borrower during the period, and the date and occasion thereof,
  - (iv) the cost of borrowing, expressed as one sum in dollars and cents, charged during the period,
  - (v) the outstanding balance in the account of the borrower at the end of the period, and
  - (vi) the statement referred to in clause *a*. 1966, c. 23, s. 22 (2); 1967, c. 13, s. 3.

Manner of  
applying  
percentage  
rate

**38.** The percentage rate by which the cost of borrowing is expressed shall be applied in the manner prescribed by the regulations. 1966, c. 23, s. 23.

When  
costs of  
borrowing  
not re-  
coverable

**39.** A borrower is not liable to pay a lender as the cost of borrowing any sum in excess of the sum shown in the statement required by section 36 or 37 in respect of the transaction. 1966, c. 23, s. 24.

**40.** Where a sum remaining to be paid under an agreement for credit is paid in full before the term of the agreement has expired, Prepayment

- (a) the borrower is entitled to a proportionate credit in respect of the cost of borrowing; and
- (b) the lender is entitled to a proportionate part of the cost of lending,

in an amount determined in the manner prescribed by the regulations. 1966, c. 23, s. 25.

**41.**—(1) Subject to the regulations, no lender shall represent, either orally or in print, or by radio or television broadcast, his charge for credit or cause such charge to be so represented unless the representation includes the full cost of borrowing and is expressed in the manner required by section 36 or 37. 1966, c. 23, s. 26 (1); 1967, c. 13, s. 4 (1). Advertising of cost of borrowing

(2) Subject to the regulations, where a lender represents or causes to be represented in a printing, broadcast or other publication any terms of the credit agreement other than that referred to in subsection 1, the lender shall also include or cause to be included all other relevant terms of the credit transaction, including, Advertising of other terms of credit

- (a) the sum to be actually received in cash by the borrower or the actual cash price of the goods;
- (b) the amount of the down payment;
- (c) the amount of each instalment; and
- (d) the number of instalments required to repay the total indebtedness, including the cost of borrowing. 1966, c. 23, s. 26 (2); 1967, c. 13, s. 4 (2).

**42.**—(1) Where a lender assigns a negotiable instrument given to secure credit, he shall deliver to the assignee with the negotiable instrument a copy of the statement required by section 36 and, where the lender is a seller, a copy of the contract of sale. Assignment of negotiable instrument

(2) Every assignee of a negotiable instrument who reassigns the instrument shall deliver to his assignee the statement and contract of sale, if any, received by him in respect of the instrument. Reassignment of negotiable instrument

(3) Where an assignee of a negotiable instrument to which subsection 2 applies is entitled to recover on the instrument from the maker, the maker is entitled to be indemnified therefor by any assignor of the instrument who has not complied with subsection 1 or 2 as the case may be. 1966, c. 23, s. 27. Indemnity



Order to  
pay in-  
demnity

**43.**—(1) Where an assignor of a negotiable instrument is convicted of a contravention of section 42, the provincial judge making the conviction may order that the person convicted is liable to indemnify the maker under subsection 3 of section 42.

Filing  
indemnity  
order in  
court

(2) Where an indemnity order is made under subsection 1 in favour of a person who is or becomes liable under a judgment of a court to an assignee of the negotiable instrument in respect of which the indemnity order was made, the person entitled to the indemnity may file the indemnity order in the court office of the court in which the judgment was issued.

Default  
judgment

(3) Upon the filing of the indemnity order, the registrar or clerk of the court shall issue a default judgment in favour of the person entitled to the indemnity and against the person required by the indemnity order to give the indemnity, and the amount of the default judgment shall be the amount of the judgment referred to in subsection 1 and costs together with the costs of issuing the default judgment, or such less amount as the person entitled to the indemnity by praecipe requests.

Setting  
aside or  
variation  
of default  
judgment

(4) Upon application therefor, a judge of the court in which the default judgment is issued may set aside the default judgment or may determine the amount of the indemnity or make an order of reference for the purpose and may vary the amount of the default judgment. 1966, c. 23, s. 28.

## PART IV

### GENERAL

Agreements  
and waivers  
contrary  
to Act

**44.** This Act applies notwithstanding any agreement or waiver to the contrary. 1966, c. 23, s. 29.

Rights of  
buyer and  
borrower  
preserved

**45.** The rights of a buyer or borrower under this Act are in addition to any rights of the buyer or borrower under any other Act or by the operation of law, and nothing in this Act shall be construed to derogate from such rights. 1966, c. 23, s. 30.

Interpre-  
tation

**46.**—(1) In this section,

- (a) “credit” means the advancing of money, goods or services to or on behalf of another for repayment at a later time, whether or not there is a cost of borrowing, and includes variable credit;
- (b) “unsolicited goods” means personal property furnished to a person who did not request it and a request shall not be inferred from inaction or the passing of time alone, but does not include,

- (i) personal property that the recipient knows or ought to know is intended for another person, or
- (ii) personal property supplied under a contract in writing to which the recipient is a party that provides for the periodic supply of personal property to the recipient without further solicitation.

(2) No action shall be brought by which to charge any person upon any arrangement for the extension of credit evidenced by a credit card unless the person to whom credit is to be extended requested or accepted the credit arrangement and card in writing, and the obtaining of credit by the person named in the credit card shall be deemed to constitute such written acceptance by him.

Credit  
arrangement

(3) No action shall be brought by which to charge any person for payment in respect of unsolicited goods notwithstanding their use, misuse, loss, damage or theft.

Use of  
unsolicited  
goods

(4) Except as provided in this section, the recipient of unsolicited goods or of a credit card that has not been requested or accepted in accordance with subsection 2 has no legal obligation in respect of their use or disposal. 1970, c. 80, s. 1, *part*.

Relief  
from legal  
obligations

(5) This section applies in respect of credit cards and unsolicited goods received on or after the 3rd day of December, 1970. 1970, c. 80, s. 1, *part, amended*.

Application  
of section

**47.** Where, in the opinion of the Registrar, any seller or lender is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and sections 7 to 19 apply to the order in the same manner as to a decision of the Registrar refusing registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1968-69, c. 14, s. 3.

False  
advertising

**48.—(1)** Every person who contravenes this Act or the regulations and every director or officer of a corporation who knowingly concurs in a contravention of this Act or the regulations are guilty of an offence and on summary conviction are liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Offence

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Corporations

(3) Subject to subsection 1 of section 29, no proceeding under this section shall be instituted more than three years after the time when the subject-matter of the proceeding arose. 1966, c. 23, s. 32.

Limitation

Deviations  
from forms

(4) For the purposes of this section, an error or omission in any form prescribed or information required to be given by this Act or the regulations shall not be deemed to be in contravention of this Act or the regulations where the person against whom the contravention is alleged proves that the error or omission is a *bona fide* accidental or clerical error or omission or beyond his control. 1968, c. 17, s. 4.

Regulations

**49.** The Lieutenant Governor in Council may make regulations,

- (a) governing applications for registration or renewal of registration of itinerant sellers and prescribing terms and conditions of registration;
- (b) requiring itinerant sellers to make returns and furnish information to the Registrar;
- (c) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
- (d) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof;
- (e) requiring itinerant sellers or any class thereof to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;
- (f) requiring the payment of fees on application for registration as an itinerant seller or for renewal of such registration, and prescribing the amounts thereof;
- (g) prescribing the form of executory contracts and statement of the cost of borrowing and the size, type and colour of lettering used in any provision thereof;
- (h) requiring and governing the maintenance of trust accounts by sellers or any class thereof, and prescribing the moneys that shall be held in trust and the terms and conditions thereof;
- (i) prescribing the manner in which the cost of borrowing stated as a percentage shall be calculated, expressed and applied;
- (j) prescribing the manner of determining the apportionment of the cost of borrowing for the purposes of section 40;
- (k) exempting any class of buyer, seller, itinerant seller, lender or borrower from the application of this Act or any provision thereof;

- (*l*) prescribing forms for the purposes of this Act and providing for their use;
  - (*m*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;
  - (*n*) defining any expression used in Part II or Part III of this Act;
  - (*o*) governing the advertising by lenders of the cost of borrowing or other terms of credit;
  - (*p*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 23, s. 33; 1967, c. 13, s. 6; 1968-69, c. 14, s. 5.
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## CHAPTER 83

### The Consumer Protection Bureau Act

**1.**—(1) There shall be a branch of the Department of Financial and Commercial Affairs, to be known as the Consumer Protection Bureau, which shall consist of the Registrar of the Consumer Protection Bureau and such other officers and employees as are considered necessary.

Consumer  
Protection  
Bureau  
established

(2) The Consumer Protection Bureau shall,

Duties of  
Consumer  
Protection  
Bureau

- (a) disseminate information for the purpose of educating and advising consumers respecting consumer protection and lending and borrowing practices;
- (b) promote and assist existing counselling services in respect of consumer credit;
- (c) receive and investigate complaints of conduct in contravention of legislation for the protection of consumers;
- (d) enforce legislation for the protection of consumers; and
- (e) perform any other duties given to it by any Act. 1966, c. 24, s. 1.

**2.** The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1966, c. 24, s. 2, *amended*.

Moneys

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## CHAPTER 84

## The Controverted Elections Act

## 1. In this Act,

Interpre-  
tation

- (a) “candidate at an election” or “candidate” means a person elected to serve in the Assembly, or a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the day of the issue of the writ for an election or after the dissolution or vacancy in consequence of which the writ has been issued;
- (b) “corrupt practice” has the meaning assigned to it by *The Election Act*; R.S.O. 1970,  
c. 142
- (c) “county” includes united counties and a district;
- (d) “county court” includes a district court;
- (e) “court” means the Court of Appeal;
- (f) “election” means an election of a member to serve in the Assembly;
- (g) “election court” means a court constituted under this Act for the trial of a petition;
- (h) “election list” means the list of petitions referred to in section 32;
- (i) “member” means a member of the Assembly;
- (j) “petition” means a petition presented under this Act;
- (k) “prescribed” means prescribed by this Act or by the rules of court;
- (l) “public moneys” includes the moneys of Ontario or of a municipality;
- (m) “registrar” means the registrar of the Court of Appeal;
- (n) “rules of court” means the rules made as provided in this Act;
- (o) “Speaker” means the Speaker of the Assembly, or, when the office is vacant, the Clerk of the Assembly or any other officer for the time being performing the duties of the Clerk. R.S.O. 1960, c. 65, s. 1, *amended*.

Jurisdiction

**2.** The Supreme Court has, subject to this Act, the same powers, jurisdiction and authority with reference to a petition and the proceedings thereon as it would have if the petition were an ordinary action within the jurisdiction of that court. R.S.O. 1960, c. 65, s. 2.

Practice  
and  
procedure

**3.—**(1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the Supreme Court apply to a petition and to the proceedings thereon with respect to,

- (a) service of the petition and of all other documents;
- (b) payment into and out of court;
- (c) examination for discovery;
- (d) production and inspection of documents;
- (e) cost and the taxation and recovery thereof; and
- (f) all other matters of practice or procedure.

Saving

(2) Nothing in this section extends or confers the right to extend the time for the presentation of a petition. R.S.O. 1960, c. 65, s. 3.

Power to  
make rules  
of court

**4.** Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make general rules, not inconsistent with this Act, for the effectual execution thereof and the regulation of the practice and procedure and as to costs. R.S.O. 1960, c. 65, s. 4.

Present  
rules and  
practice in  
cases not  
provided  
for

**5.** The rules of court now in force shall remain in force until revoked or altered by rules of court made in pursuance of this Act, and, so far as the rules of court from time to time in force do not extend, the principles, practice and rules on which election petitions touching the election of members to the House of Commons of the United Kingdom were on the 15th day of February, 1871, dealt with, where not inconsistent with this Act, shall be observed. R.S.O. 1960, c. 65, s. 5.

Subject  
matter of  
petition

**6.** A petition may be presented to the court complaining of an undue return or undue election of a member, or of no return, or of matters contained in a special return, or of a corrupt practice by a candidate not returned by which he is alleged to have become disqualified to sit in the Assembly. R.S.O. 1960, c. 65, s. 6.

By whom  
petition may  
be presented

**7.** A petition may be presented by,

- (a) a person who was a candidate at the election; or
- (b) three persons who voted or who had a right to vote at the election and who are severally rated on the last revised assessment roll in respect of real property in the electoral district for at least \$1,000. R.S.O. 1960, c. 65, s. 7.

**8.** Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but the petition shall be deemed to be a separate petition against each respondent. R.S.O. 1960, c. 65, s. 8.

Who may  
be made  
respondents

**9.** Where a petition complains of the conduct of a returning officer, he shall, for all the purposes of this Act except the admission of a respondent in his place, be deemed to be a respondent. R.S.O. 1960, c. 65, s. 9.

Petition  
complaining  
of a  
returning  
officer

**10.** Where a petition complains of no return, the court may make such order thereon as it considers expedient for compelling a return to be made, or may allow the petition to be tried by an election court in the manner provided in this Act with respect to other petitions. R.S.O. 1960, c. 65, s. 10.

Petition  
complaining  
of no return

**11.** The petition shall be presented within forty-five days after the day on which the polling was held for the election named in the petition, unless it questions the return or election upon an allegation of corrupt practices and specifically alleges a payment of money or other act by the member or on his account, or with his privity, since the time of the return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within such period of forty-five days or within twenty-eight days after the date of such payment or act. R.S.O. 1960, c. 65, s. 11.

Petition  
when to be  
presented

**12.** A petition shall be in such form and state such matters as are prescribed, and shall be signed by the petitioner, or all the petitioners, if there are more than one. R.S.O. 1960, c. 65, s. 12.

Form of  
petition,  
and by  
whom to be  
signed

**13.** If a petition is presented against the return of a member, the respondent or any other person authorized by law to present a petition, may, within fifteen days after the service of the petition against the return, present a petition complaining of a corrupt practice by a candidate at the same election who was not returned, whether the seat is or is not claimed by him, or on his behalf, and the trial of such petition shall take place at the same time as the trial of the petition against such member or respondent, or at such other time as is appointed. R.S.O. 1960, c. 65, s. 13.

Cross  
petition on  
account of  
corrupt  
acts

**14.—(1)** Presentation of a petition in a case arising in the Judicial District of York shall be made by delivering it to the registrar, and in other cases by delivering it to the local registrar of the Supreme Court for the county or district in which the electoral district or any part thereof is situate, or otherwise dealing with it in the manner prescribed. R.S.O. 1960, c. 65, s. 14 (1), *amended*.

Presentation  
of petition



Notice to  
registrar

(2) On receipt of a petition by a local registrar, he shall send notice thereof by registered mail to the registrar.

Notice to  
Chief  
Election  
Officer

(3) The registrar shall send a notice by registered mail to the Chief Election Officer of the presentation of every petition. R.S.O. 1960, c. 65, s. 14 (2, 3).

Verification

**15.**—(1) With every petition shall be filed an affidavit by each of the petitioners, referring or annexed to the petition, stating that the deponent presents the petition in good faith and with actual knowledge of the allegations therein contained and has reason to believe and does believe the statements contained therein to be true in substance and in fact, and all particulars afterwards furnished by either party shall be verified by the affidavit of the person furnishing such particulars.

Cross-  
examination

(2) The respondent may cross-examine any petitioner upon any such affidavit made by such petitioner and may move for the dismissal of the petition, and, if the court is satisfied that the petitioner is not acting in good faith or has not reason to believe or does not believe any statements contained in such affidavit, or the petition or particulars verified by such affidavit, the petition shall be dismissed and all proceedings thereunder terminated on such terms as the court directs. R.S.O. 1960, c. 65, s. 15.

Publication  
of notice of  
petition

**16.**—(1) On the presentation of a petition against the return of a member, the officer with whom it is filed shall send a copy thereof by mail to the returning officer of the electoral district to which the petition relates, who shall forthwith publish a notice thereof once in a newspaper published in the locality, or, if there is no newspaper published in the locality, then in a newspaper having general circulation in the locality.

Form of  
notice

(2) The notice may be in the form following:

Notice is hereby given that.....has  
presented a petition to the Supreme Court of Ontario under *The  
Controverted Elections Act* against the return of.....  
.....as a member of the Legislative  
Assembly for the Electoral District of.....  
[and (*where the seat is claimed*) claiming the seat for.....  
.....or as the case may be].

Dated at.....the.....day of....., 19..

Returning Officer

R.S.O. 1960, c. 65, s. 16.

Disclaimer  
R.S.O. 1970,  
c. 240

**17.**—(1) A disclaimer by the member-elect under *The Legislative Assembly Act* does not affect the right of any person entitled to contest the election to present a petition claiming the seat for himself or for some other person, or the liability of the person disclaiming in respect of corrupt practices against whom a petition may be presented in the same manner as if he had not disclaimed.

(2) In the case of a petition claiming the seat for the petitioner or some other person, the election court shall determine whether any candidate, other than the member who has disclaimed, was duly elected, and the candidate declared by the election court to be duly elected is entitled to the seat. R.S.O. 1960, c. 65, s. 17.

When seat  
claimed

**18.** The officer receiving a copy of the disclaimer under subsection 2 of section 17 of *The Legislative Assembly Act* shall give notice of such disclaimer to any person who has filed or who may thereafter present to be filed a petition against the member disclaiming. R.S.O. 1960, c. 65, s. 18.

Notice of  
disclaimer

**19.** Notwithstanding such disclaimer, a judge of the court, upon the application of any voter in the electoral district within ten days after the registrar has received notice of the disclaimer and upon its being made to appear that corruption has extensively prevailed at the election, may permit a petition to be filed in the same manner as though no such disclaimer had been made, or may, upon such grounds, permit proceedings upon any petition that has been filed to proceed upon such terms as he considers proper. R.S.O. 1960, c. 65, s. 19.

Permitting  
petition to  
be filed  
where  
corruption  
charged

**20.** At the time of the presentation of a petition, or within four days afterwards, security shall be given on behalf of the petitioner for the payment,

Security for  
costs

- (a) to the returning officer and the sheriff of the costs and charges incurred in the publication of notices in the electoral district in respect of the petition or proceedings thereon, which shall form a first charge upon the security; and
- (b) of all costs, charges and expenses that may become payable by the petitioner to,
  - (i) every person summoned as a witness on his behalf,
  - (ii) the member or candidate against whom the petition is presented, and
  - (iii) the returning officer, if his conduct is complained of. R.S.O. 1960, c. 65, s. 20.

**21.** The security shall be a deposit of \$1,000 in one of the banks in which public money of Ontario is then being deposited, and the deposit shall be made to the credit of the petition with the privity of the Accountant of the Supreme Court. R.S.O. 1960, c. 65, s. 21.

How made

**22.—(1)** A copy of the petition, together with notice of the presentation thereof, shall be served upon the respondent within ten days after the day on which security is given or within such further period as a judge of the court, under special circumstances

Service of  
petition

of difficulty in effecting service and on application made not later than three days after the expiration of such ten days, may allow.

Manner

(2) The service shall be made as nearly as may be in the manner in which a writ of summons is served or in such other manner as is prescribed.

Outside  
Ontario

(3) By leave of a judge of the court, the service may be made outside Ontario. R.S.O. 1960, c. 65, s. 22.

When and  
how parties  
to petition  
may be  
examined

**23.** Every party to a petition may, at any time after the petition is at issue, be examined in the manner hereinafter directed by a party adverse in interest touching any matter raised by the petition, and a party so examined may be further examined on his own behalf in relation to any matter respecting which he has been examined in chief and, when one of several petitioners or respondents has been so examined, any other petitioner or respondent, united in interest, may be examined on his own behalf or on behalf of those united with him in interest to the same extent as the party examined, but the explanatory examination shall be proceeded with immediately after the examination in chief and not at any later period, except by leave of a judge of the court. R.S.O. 1960, c. 65, s. 23.

Member not  
required to  
attend on  
preliminary  
examination  
during  
session

**24.** Where a petition has been filed against a member-elect who is entitled to take his seat, he shall not be required without his consent to attend on a preliminary examination during a session of the Assembly. R.S.O. 1960, c. 65, s. 24.

Stay of  
examination  
ordered

**25.** Where a party to a petition considers that a preliminary examination is being carried on for an unreasonable length of time, he may apply to a judge of the court, on giving two clear days notice to the opposite party, for an order that no further examination shall be had or that the examination shall be closed by a day to be named, and the judge may make an order accordingly or may make such other order as appears just and reasonable. R.S.O. 1960, c. 65, s. 25.

Examination  
of candidate  
claiming  
seat

**26.** A candidate for whom the seat is claimed, although not a party to the petition, may be orally examined as if he were a petitioner, and, for the purpose of production of documents, shall be deemed to be a petitioner. R.S.O. 1960, c. 65, s. 26.

How  
examination  
of parties  
to be had

**27.**—(1) A party to be examined orally shall be examined before a judge of the county court, the registrar or a local master or special examiner of the Supreme Court, or by consent of the parties, before a barrister-at-law specially named in the order for examination.

(2) The costs of and incidental to every preliminary examination shall be borne by the party procuring the examination, and shall not in any event be chargeable against the other party or against the deposit in court. R.S.O. 1960, c. 65, s. 27.

Costs of preliminary examinations

**28.** When the examination is concluded, the original depositions, authenticated by the signature of the examiner, shall be transmitted by him to the office where the petition is filed, and any party to the petition is entitled to a copy of the depositions, or any part thereof, upon payment for it at such rate as is prescribed. R.S.O. 1960, c. 65, s. 28.

Depositions to be filed

**29.**—(1) If a preliminary examination is had, the returning officer to whom the bills and vouchers relating to the election have been delivered as provided by *The Election Act* may be subpoenaed to produce the bills and vouchers for the purposes of the examination.

Production of bills and vouchers  
R.S.O. 1970, c. 142

(2) Immediately upon the close of the examination, the bills and vouchers shall be returned to the returning officer and verified copies thereof may be made and filed as exhibits in lieu of the originals. R.S.O. 1960, c. 65, s. 29.

Custody

**30.** Where the party to be examined is a prisoner, the sheriff, jailer or other officer having him in custody shall take him before the examiner if so ordered by a judge of the court. R.S.O. 1960, c. 65, s. 30.

Attendance of prisoners as witnesses

**31.** Every party to the petition is entitled to use upon the trial depositions of the opposite party, but, where such party uses any part of a deposition, the election court may look at the whole deposition and allow such other part of it as is explanatory of the part used to be read in connection therewith. R.S.O. 1960, c. 65, s. 31.

Depositions may be used on trial

**32.**—(1) The registrar shall as soon as possible make out a list of all petitions that are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of the list open to the inspection of any person making application, and the petitions, as far as conveniently may be, shall be tried in the order in which they stand on the list.

List of petitions

(2) Where more petitions than one relating to the same election or return are presented, they shall in the election list be bracketed together and shall be dealt with as far as practicable as one petition, but the petitions shall stand on the election list in the place where the last of them would have stood if it had been the only petition presented, unless a judge of the court otherwise directs. R.S.O. 1960, c. 65, s. 32.

Several petitions relating to same election



Trial to be  
by two  
judges

**33.** Every petition shall be tried by two judges of the Supreme Court without a jury. R.S.O. 1960, c. 65, s. 33.

Assignment  
of judges  
for trial of  
petitions

**34.—**(1) All such arrangements as may be necessary for the holding of the election courts and the assignment from time to time of the judges before whom the election trials and trials of persons charged with corrupt practices are to take place shall be made by the judges of the Supreme Court or a majority of them.

Substitution

(2) Where occasion for so doing arises, the judges of the Supreme Court, or a majority of them, may at any time substitute for any judge assigned to hold an election court any other judge of the Supreme Court.

Delegation  
of duties

(3) The judges of the Supreme Court, or a majority of them, may from time to time delegate to such of their number, not being fewer than four, as they see fit, the duties mentioned in subsection 1 or any of them. R.S.O. 1960, c. 65, s. 34.

Registrar of  
election  
court,  
appointment

**35.—**(1) The Lieutenant Governor in Council may appoint a registrar, to be called the registrar of the election court, who shall attend the trials of petitions and perform such duties as are prescribed by order in council or the rules of court.

Absence of  
registrar

(2) Where the registrar is unable to attend, the judges assigned to hold the court may appoint a registrar thereof, and he is entitled to such fees as may be determined by the Lieutenant Governor in Council.

Salary

(3) The salary of the registrar shall be determined by order in council and is in lieu of all fees. R.S.O. 1960, c. 65, s. 35.

Place of  
trial

**36.—**(1) The trial of a petition shall take place in the electoral district the election or return for which is in question unless it appears to the election court that it is desirable that the petition should be tried elsewhere, in which case the court may, with the consent of the parties, appoint such other place as appears most convenient.

Adjourn-  
ment

(2) The election court may adjourn the trial from time to time and from any one place to any other place within the electoral district as seems expedient.

Adjourn-  
ment to  
Toronto

(3) Nothing in this section prevents the election court from directing that the trial be adjourned to, or be continued or closed in Toronto. R.S.O. 1960, c. 65, s. 36.

Notice of  
trial

**37.** Notice of the time and place at which the petition will be tried shall be given, in the prescribed manner, not less than fourteen days before the day on which the trial is to take place. R.S.O. 1960, c. 65, s. 37.



**38.** The judges shall be received and attended at the place where they are to try a petition in the same manner, so far as circumstances will admit, as a judge is received and attended at a sittings of the High Court in a county town for the trial of actions. R.S.O. 1960, c. 65, s. 38.

Reception and attendance on the judge

**39.** Subject to this Act, the judges constituting an election court have the same powers, jurisdiction and authority as judges of the Supreme Court, and an election court is a court of record. R.S.O. 1960, c. 65, s. 39.

Powers of the election court

**40.** The trial or an appeal from a judgment of an election court may be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the Crown, or his resignation of the seat, or the prorogation or dissolution of the Assembly. R.S.O. 1960, c. 65, s. 40.

Certain circumstances not to stop trial

**41.**—(1) Where forty-five days have elapsed after the presentation of the petition without the day for trial having been fixed, any voter may, within fifty-five days after the presentation of the petition, apply to a judge of the court to be substituted for the petitioner or petitioners on such terms as are just and to have the date of trial fixed.

Application to change petitioner when delay in fixing day of trial

(2) Unless the application is made within such time, the petition shall be dismissed and all further proceedings thereunder shall be terminated upon such terms as the judge may direct. R.S.O. 1960, c. 65, s. 41.

Dismissal of petition

**42.**—(1) Subject to section 43, the trial shall be commenced within six months from the time when the petition was presented and shall be continued from day to day until its conclusion, unless it appears to the election court that the requirements of justice render it necessary that the trial should be adjourned.

Time for commencement of trial

(2) The election court may upon application of either party, after the day of trial has been fixed and before it has been commenced, postpone the trial on such terms as are just. R.S.O. 1960, c. 65, s. 42.

Postponement

**43.** If the member-elect is entitled to take his seat, the trial shall not be held, without his consent, during or within fifteen days after the close of a session of the Assembly, and in the computation of any time or delay allowed for any step or proceeding in respect of the trial or for the commencement of the trial, the time occupied by the session shall not be reckoned. R.S.O. 1960, c. 65, s. 43.

When trial not to be held

**44.** Unless the election court otherwise directs, evidence in support of a charge of a corrupt practice may be received before proof has been given of the agency of the person alleged to have committed the corrupt practice. R.S.O. 1960, c. 65, s. 44.

When evidence of corrupt practice may be received

Cross  
evidence  
of undue  
return

**45.** On the trial of a petition complaining of an undue return and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue, in the same manner as if the respondent had presented a petition under section 13. R.S.O. 1960, c. 65, s. 45.

Witness, how  
subpoenaed  
and sworn

**46.** Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances will admit, as on the trial of an action. R.S.O. 1960, c. 65, s. 46.

Power of  
election  
court to  
order  
attendance

**47.**—(1) The election court may, by order, compel the attendance as a witness at the trial of any person who appears to have been concerned in the election to which the petition relates, and any person refusing to obey such order is guilty of contempt of court.

Examination  
by court

(2) The election court may examine any witness so compelled to attend or any person in court, although he is not called and examined by a party to the petition.

Cross-  
examination

(3) After a witness has been examined, he may be cross-examined by or on behalf of the petitioner and respondent, or either of them.

Prisoners  
as witnesses

(4) When a witness is a prisoner, the jailer or other officer having him in custody shall take him before the election court if so ordered by that court or by a judge of the Court of Appeal. R.S.O. 1960, c. 65, s. 47.

Persons not  
excused from  
answering  
on ground  
of privilege

**48.**—(1) A person who is called before an election court shall not be excused from answering any question relating to an offence at or connected with the election, on the ground that the answer may criminate or tend to criminate him, or to establish his liability to a civil proceeding at the instance of the Crown or of any person, or on the ground of privilege, but,

- (a) a witness who answers truly all questions that he is required by the election court to answer is entitled to receive a certificate of indemnity under the hands of the members of the court, stating that the witness has so answered; and
- (b) any such answer to a question put by or before an election court is not admissible in evidence against him in any proceeding under any Act of the Legislature.

Stay of pro-  
ceeding  
against  
witness who  
has received  
certificate  
R.S.O. 1970,  
c. 142

(2) Where a witness has received a certificate and a legal proceeding is at any time instituted against him for an offence under or a contravention of *The Election Act* committed by him before the date of the certificate at or in relation to the election, the court having cognizance of the proceeding shall, on the production of the certificate, stay the proceeding and may award

to such person such costs as he has been put to in the proceedings, but a witness who upon his own evidence is found by the election court to have been guilty of a corrupt practice and who is reported therefor is thereby subject to the penalties and disabilities mentioned in subsection 2 of section 37 of *The Election Act*, unless such finding and report are reversed or set aside by the court. R.S.O. 1960, c. 65, s. 48.

R.S.O. 1970,  
c. 142

**49.** A person appearing to give evidence before an election court is entitled to the like fees and expenses as are allowed to witnesses on the trial of civil actions, and such fees and expenses, if the witness was called and examined by the election court, shall be deemed to be part of the expenses of providing a court, and in other cases are costs of the party calling the witness. R.S.O. 1960, c. 65, s. 49.

Expenses of  
witnesses

**50.** The election court shall determine whether the member whose return or election is complained of, or any and what other person was duly returned or elected, or whether the election was void, and shall also determine the matters in question on a petition, if any, presented under section 13, and, except in the case of an appeal as hereinafter provided, shall certify their determination to the Speaker and, upon the certificate being given, such determination is final. R.S.O. 1960, c. 65, s. 50.

Decision of  
election  
court

**51.** Where a charge is made in a petition of a corrupt practice having been committed, the election court shall, with the certificate, and at the same time, report,

Report of  
judges where  
charge is  
made of  
corrupt  
practices

- (a) whether any corrupt practice has been proved to have been committed by or with the actual knowledge and consent of any and of which candidate and the nature of the corrupt practice;
- (b) the name of any person who has been proved to have been guilty of a corrupt practice;
- (c) the name of any person who upon his own evidence has been found guilty of a corrupt practice;
- (d) whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election; and
- (e) whether they are of opinion that the inquiry into the circumstances of the election has been rendered incomplete by the action of any of the parties to the petition, and that further inquiry as to whether corrupt practices have extensively prevailed is desirable. R.S.O. 1960, c. 65, s. 51.

Special  
report

**52.** The election court may also report specially as to any matter arising in the course of the trial, an account of which ought to be submitted to the Assembly. R.S.O. 1960, c. 65, s. 52.

Certificate  
for Court  
of Appeal

**53.**—(1) Where an appeal is had from their judgment on the trial of a petition, the election court shall make the certificates and report to the Court of Appeal, and the same forms part of the record upon the appeal.

Certificate  
not to be  
issued during  
time for  
appealing

(2) The election court shall not certify their determination until after the security for costs of appeal has been deposited, or until the time limited for depositing the security has expired. R.S.O. 1960, c. 65, s. 53.

Concurrence  
of judges

**54.**—(1) Every certificate and every report shall be under the hands of both of the judges constituting the election court.

Where  
difference  
of opinion

(2) If the judges differ as to whether a member whose return or election is complained of was duly returned or elected, they shall certify that difference, and, subject to appeal, he shall be deemed to be duly returned or elected.

(3) If the judges determine that a member was not duly returned or elected, but differ as to other matters arising upon the trial, they shall certify that difference, and, subject to appeal, the election is void.

Agreement  
as to undue

(4) If the judges differ as to any matter that might be the subject of a report, they shall certify that difference and make no report on that matter. R.S.O. 1960, c. 65, s. 54.

Speaker to  
communicate  
report to the  
Assembly

**55.** The Speaker shall, as soon as practicable after he receives a certificate or a certificate and report, communicate the same to the Assembly, and the same shall forthwith thereafter be entered on the Journals, and the Assembly may give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution, as the circumstances may require. R.S.O. 1960, c. 65, s. 55.

If election  
set aside  
and appeal  
entered

**56.**—(1) If the election court determines that a member was not duly returned or elected notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote in the Assembly until the appeal is disposed of and the certificate of the court received by the Speaker, but where the election court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the certificate of the court received by the Speaker.



(2) In the cases to which subsection 1 applies, where an appeal is entered, the registrar shall forthwith notify the Speaker of the determination of the election court and that an appeal therefrom is pending. R.S.O. 1960, c. 65, s. 56.

Notice to  
Speaker

**57.** A writ for a new election shall not be issued until after the expiration of eight days from the determination of the election court that the return or election is void and, if an appeal is in the meantime brought, the writ shall not issue pending the appeal. R.S.O. 1960, c. 65, s. 57.

Time for  
issue of writ  
for new  
election

**58.—**(1) Where it appears to the court or to the election court that the case raised by the petition can be conveniently stated as a special case, either court, upon the application of a party or upon the consent of all parties, may direct the case to be stated accordingly, and such special case shall be heard before the Court of Appeal whose decision is final, and the registrar shall certify to the Speaker the judgment upon such special case and the petition.

Special  
case

(2) If it appears to the election court before or during the trial of a petition that there is a question of law that it would be convenient to have decided by the court before the trial of the petition is concluded, the election court may make an order accordingly, and may direct the mode in which the question shall be raised, and may in the meantime, if it appears necessary, adjourn the trial of the petition until the question has been decided, and shall thereafter deal with the petition upon the trial in accordance with the decision. R.S.O. 1960, c. 65, s. 58.

Decision  
as to  
question  
of law

**59.—**(1) Where the judges constituting an election court disagree, they shall certify the disagreement as provided by section 54, and either party may thereupon bring the matter before the court, and the court shall, in disposing thereof, have the same jurisdiction in all respects as on an appeal from a decision of the election court and may determine all questions of law and fact that the election court might or should have determined, and the registrar shall certify the judgment of the court to the Speaker. R.S.O. 1960, c. 65, s. 59 (1), *amended*.

Disagree-  
ment be-  
tween the  
trial judges

(2) Instead of determining all such questions, the court may refer the case back to the election court with such declarations and directions as the court thinks fit, and the election court shall thereupon dispose of the case in accordance with such declarations and directions, and shall certify as the case requires. R.S.O. 1960, c. 65, s. 59 (2).

Reference  
back

**60.—**(1) A party to a petition who is dissatisfied with the judgment of the election court may appeal therefrom to the Court of Appeal.

Appeal



Security  
for costs

(2) The party appealing shall within eight days from the day on which the judgment was given deposit with the registrar \$100 as security for costs.

Setting  
down for  
hearing

(3) The registrar shall thereupon set the appeal down to be heard on a day to be appointed by a judge of the court.

Precedence

(4) The appeal shall be given precedence over all ordinary business, but the court may for sufficient cause postpone the hearing.

Notice of  
setting  
down

(5) The party appealing shall within three days after the security for costs has been given, or within such further time as a judge of the court allows, give to the other parties affected by the appeal notice in writing that the appeal has been set down to be heard, and by the same notice the party appealing may limit the appeal to any specific question. R.S.O. 1960, c. 65, s. 60.

Hearing

**61.** The appeal shall thereupon be heard and determined by the court, and such judgment shall be pronounced as in the opinion of the court should have been given by the election court. R.S.O. 1960, c. 65, s. 61.

Court to re-  
view decision  
upon facts as  
well as law

**62.** The court shall review the judgment upon questions of fact as well as of law and shall draw such inference from the facts or evidence as the election court should have drawn. R.S.O. 1960, c. 65, s. 62.

Powers of  
court as to  
amendments  
and evidence

**63.** The court has all the powers and duties as to amendment and otherwise of the election court, and may require any witness to be re-examined, and may receive further evidence, either by oral examination in court, or by affidavit or by deposition taken before any judge or other person whom the court names. R.S.O. 1960, c. 65, s. 63.

Judges may  
report upon  
demeanour  
of witnesses

**64.** Where the judgment of the election court depends in whole or in part upon the credit given to particular witnesses, and the judgment is appealed against, the election court may make a written report as to the demeanour of the witnesses and their mode of giving their evidence, and of the reasons for giving credit to the particular witnesses. R.S.O. 1960, c. 65, s. 64.

Return of  
deposit

**65.** The court may make such order as to the disposition of the deposit as seems just. R.S.O. 1960, c. 65, s. 65.

Registrar to  
certify judg-  
ment to the  
Speaker

**66.** The registrar shall certify to the Speaker the judgment of the court in the same manner as the election court but for the appeal would have done, and shall certify as to the matters and things as to which the election court would but for the appeal have been required to report. R.S.O. 1960, c. 65, s. 66.

- 67.** Instead of so certifying, the court, upon such terms as to costs and otherwise as seem just, may grant a new trial for the purpose of taking evidence, or additional evidence, and may remit the case to the election court, or to some other election court, and, subject to any directions of the court, the case shall thereafter be proceeded with as if there had been no appeal. R.S.O. 1960, c. 65, s. 67.

New trial
- 68.** The judgment of the court on any matter or question under this Act or *The Election Act* is final, and is not subject to appeal. R.S.O. 1960, c. 65, s. 68.

Decision of Court of Appeal final  
R.S.O. 1970, c. 142
- 69.**—(1) A petition shall not be withdrawn without the leave of a judge of the court upon special application to be made in the prescribed manner and at the prescribed time and place.

Withdrawal of petitions
- (2) The application shall not be made until the prescribed notice thereof has been given in the electoral district.

Notice of withdrawal
- (3) Where there are more petitioners than one, the application to withdraw a petition shall not be made, except with the consent of all the petitioners.

All petitioners must join in withdrawal
- (4) Subject to section 41, on the hearing of the application, any person who might have been a petitioner may apply to be substituted as the petitioner.

Substitution of new petitioner
- (5) A judge of the court may substitute the applicant as the sole petitioner, and, if the proposed withdrawal appears to be induced by a corrupt bargain or consideration, may direct that the security given remains as security for any costs that the substituted petitioner may be ordered to pay and that to the extent of the security the original petitioner or petitioners are liable to pay such costs.

Order as to security where withdrawal is induced by corrupt bargain
- (6) If the judge makes no order with respect to the security given, security to the same amount as would be required in the case of a petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with the petition and within four days after the order of substitution.

Security to be given by substituted petitioner
- (7) Subject as aforesaid, a substituted petitioner stands in the same position, as nearly as may be, and is subject to the same liabilities as the original petitioner.

Liabilities of substituted petitioner
- (8) If a petition is withdrawn, the petitioner shall pay the costs of the respondent, unless a judge of the court otherwise orders. R.S.O. 1960, c. 65, s. 70.

Costs
- 70.** If it appears that the withdrawal of the petition was the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition, the court shall report to the Speaker the circumstances attending the withdrawal. R.S.O. 1960, c. 65, s. 71.

Where court to report

Abatement  
of petition  
by death

**71.**—(1) A petition abates on the death of a sole petitioner or of the survivor of several petitioners.

Costs

(2) The abatement of a petition does not affect any liability for costs previously incurred.

Notice of  
abatement  
to be given

(3) On the abatement of a petition, the prescribed notice of the abatement shall be given in the electoral district, and any person who might have been a petitioner may apply to a judge of the court in the prescribed manner and at the prescribed time and place to be substituted as the sole petitioner.

Substitution  
of new  
petitioner on  
abatement

(4) The judge may substitute the applicant as the petitioner upon his giving security to the same amount as is required in the case of a petition. R.S.O. 1960, c. 65, s. 72.

Substitution  
of new  
petitioner  
where peti-  
tioner not  
qualified

**72.** Where a petitioner is not qualified to be a petitioner, the petition shall not be dismissed on that account if, within such time as a judge of the court allows for that purpose, another petitioner is substituted, and the substitution shall be made on such terms and conditions as the judge considers proper. R.S.O. 1960, c. 65, s. 73.

Notice  
required if  
respondent  
dies or seat  
becomes  
vacant

**73.**—(1) If, before or during the trial of a petition,

(a) the respondent dies; or

(b) the Assembly resolves that the seat is vacant; or

(c) the respondent gives notice to the court or to the election court in the prescribed manner and at the prescribed time, that he does not intend to oppose, or further to oppose, the petition,

notice of such event shall be given in the prescribed manner in the electoral district.

Applicant  
to be ad-  
mitted as a  
respondent

(2) Within the prescribed time after the notice is given, any person who might have been a petitioner may apply to a judge of the court to be admitted as a respondent to oppose the petition, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the respondent, if there be a respondent, or in place of the respondent, and any number of persons, not exceeding three, may be so admitted.

Adjourn-  
ment of  
trial

(3) If any of the events mentioned in subsection 1 happen during the trial, the election court shall adjourn the trial in order that notice may be given as hereinbefore provided.

Disabilities  
of respon-  
dent in  
such case

(4) A respondent who has given the prescribed notice shall not be allowed to appear or act as a party against the petition in any proceeding thereon, and shall not sit or vote in the Assembly until the Assembly has been informed of the report on the petition, and the court shall report the giving of the notice to the Speaker. R.S.O. 1960, c. 65, s. 74.

**74.** Except as otherwise herein provided, the costs, charges and expenses of and incidental to or consequent upon or arising out of a petition are in the discretion of the court or judge before whom the proceeding is pending who shall have full power to determine by whom, in what manner and to what extent the same are to be paid. R.S.O. 1960, c. 65, s. 76.

Costs

**75.** If a petition is filed before the petitioner has notice of the filing of a disclaimer and is dismissed in consequence of the disclaimer, the respondent shall pay all costs of the petitioner up to the time the petitioner received notice of the disclaimer and the costs of the application to dismiss. R.S.O. 1960, c. 65, s. 77.

When petition filed before notice of disclaimer

**76.**—(1) If on the trial of a petition it is adjudged that a corrupt practice has been committed by an agent but without the actual knowledge and consent of the candidate and costs are awarded against the candidate, the election court on the application of any party to the petition may order the agent to be summoned to appear before an election court at a time fixed in the order to show cause why he should not be ordered to pay such costs or so much thereof as seem just and to indemnify the candidate against the payment thereof.

When agent may be ordered to pay costs

(2) If at the time so fixed the agent does not appear, he may be ordered, upon the evidence given at the trial of the petition and upon such further evidence, if any, as is adduced, to pay the whole or such part of the costs awarded against the candidate as seems just, and to indemnify the candidate against the payment thereof, and, if the agent appears, such order may be made as seems just after hearing the parties and such evidence as is adduced.

If agent does not appear

(3) The party to whom costs are awarded is entitled to issue execution for the amount ordered to be paid by the agent against the agent as well as against the candidate.

Execution for costs

(4) If the costs awarded against the agent are paid by the candidate, he is entitled to be repaid them in turn by the agent, and may upon the order of a judge of the court issue execution against the agent therefor. R.S.O. 1960, c. 65, s. 78.

Repayment of costs by agent to candidate

**77.**—(1) The total amount to be allowed for counsel fees in respect of the trial upon taxation as between party and party shall not exceed \$50 for the first day upon which the trial is held and \$40 for each subsequent day during which it is continued.

Taxation and recovery of costs

(2) No greater sum than \$300 in addition to counsel fees is taxable against either party as costs in the cause in addition to witness fees and other actual and necessary disbursements taxable as between party and party in an action in the Supreme Court.

Counsel fees



No limitation in certain cases R.S.O. 1970, c. 142

(3) This section does not apply to costs taxable against a candidate who has incurred the penalties and disabilities provided by *The Election Act* for corrupt practices committed by him or with his actual knowledge and consent. R.S.O. 1960, c. 65, s. 79.

Recovery of costs against petitioner

**78.**—(1) A party to whom costs are awarded against the petitioner may, within thirty days from the date of the judgment or order awarding them or within such other time as a judge of the court allows, file the certificate of taxation with the registrar and at the expiration of the period is entitled to receive out of the deposit the amount taxed to him.

Where costs exceed deposit

(2) If the total amount of the certificates so filed exceeds the deposit, each of the parties filing the same is entitled to receive his proportion thereof, and may forthwith issue execution for the residue. R.S.O. 1960, c. 65, s. 80.

Costs not to be awarded against candidate who is not unseated

**79.** The costs of a petition shall not be awarded against a candidate where he is not, by the judgment of the court, unseated, but this section does not apply to cross petitions. R.S.O. 1960, c. 65, s. 81.

Provisions as to costs not specially provided for

**80.** No costs beyond those taxable between party and party are, in the absence of a special contract, taxable between solicitor and client. R.S.O. 1960, c. 65, s. 82.

Writ, etc., need not be produced at trial

**81.** Unless the election court otherwise directs, it is not necessary on the trial of a petition or of any proceeding under this Act to prove the writ of election or the return thereof. R.S.O. 1960, c. 65, s. 83.

Power to punish for contempt and enforce rules

**82.** The court and any judge of the Supreme Court, for the purpose of enforcing obedience to any judgment or order, or for punishing contempt, has power to grant a writ of attachment. R.S.O. 1960, c. 65, s. 84.

Expenses of court, how payable

**83.**—(1) The travelling and other expenses of the judges and the expenses incurred by the sheriff in attending them and in providing the court and accessories and the fees and travelling and other expenses of the registrar shall be audited and paid in the same manner as the fees and expenses allowed to other officers under *The Election Act*.

When payable by parties

(2) The fees and expenses of the sheriff and other officers for publishing any notice or for the service of process or other papers at the instance of any party to the petition are costs in the cause and shall be borne and paid in the first instance by the party on whose behalf the services are rendered. R.S.O. 1960, c. 65, s. 85.



**84.** Where an election court reports that a person has been guilty of a corrupt practice, it is the duty of the Crown attorney to prosecute such person, unless the election court otherwise directs. R.S.O. 1960, c. 65, s. 86.

Prosecution  
of persons  
reported for  
corrupt  
practices

**85.** No election or return shall be questioned except in accordance with this Act. R.S.O. 1960, c. 65, s. 87.

Election  
not  
to be ques-  
tioned except  
under Act

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## CHAPTER 85

### The Conveyancing and Law of Property Act

#### 1.—(1) In this Act,

Interpre-  
tation

- (a) “conveyance” includes an assignment, appointment, lease, settlement, and other assurance, made by deed, on a sale, mortgage, demise, or settlement of any property or on any other dealing with or for any property, and “convey” has a meaning corresponding with that of conveyance;
- (b) “land” includes messuages, tenements, hereditaments, whether corporeal or incorporeal, and any undivided share in land;
- (c) “mortgage” includes a charge on property for securing money or money’s worth;
- (d) “mortgage money” means money or money’s worth secured by a mortgage;
- (e) “mortgagee” includes a person from time to time deriving title under the original mortgagee;
- (f) “mortgagor” includes a person from time to time deriving title under the original mortgagor or entitled to redeem a mortgage according to his estate, interest or right in the mortgaged property;
- (g) “property” includes real and personal property, a debt, a thing in action, and any other right or interest;
- (h) “puffer” means a person appointed to bid on the part of the seller;
- (i) “purchaser” includes a lessee, a mortgagee and an intending purchaser, lessee or mortgagee, or other person, who, for valuable consideration, takes or deals for any property, and “purchase” has a meaning corresponding with that of purchaser; but “sale” means only a sale properly so called. R.S.O. 1960, c. 66, s. 1.

(2) Section 43 of *The Clergy Endowments (Canada) Act, 1791* (Imperial) and sections 31 and 32 of *The British North America (Trade and Lands) Act, 1822* (Imperial), as they applied in Ontario on the day before the day on which they were repealed, continue in effect in Ontario in the same manner and to the same extent as if they had been expressly enacted as part of this Act and had not been repealed. 1964, c. 9, s. 1.

Free and common socage, fief, seignory, etc. 31 Geo. 3 (Imp.), c. 31, s. 43; 3 Geo. 4 (Imp.), c. 119, ss. 31, 32, continue to apply

Conveyance  
of corporeal  
tenements

**2.** All corporeal tenements and hereditaments, as regards the conveyance of the immediate freehold thereof, lie in grant as well as in livery. R.S.O. 1960, c. 66, s. 2.

Form and  
operation of  
feoffments

**3.** A feoffment, otherwise than by deed, is void and no feoffment shall have any tortious operation. R.S.O. 1960, c. 66, s. 3.

Estate tail  
to be con-  
strued as  
fee simple

**4.** A limitation in a conveyance or will that before the 27th day of May, 1956, would have created an estate tail shall be construed as an estate in fee simple or the greatest estate that the grantor or testator had in the land. R.S.O. 1960, c. 66, s. 4.

Limitation

**5.**—(1) In a conveyance, it is not necessary, in the limitation of an estate in fee simple, to use the word “heirs”.

Idem

(2) For the purpose of such limitation, it is sufficient in a conveyance to use the words “in fee simple” or any other words sufficiently indicating the limitation intended.

Effect of  
conveyance  
without  
words of  
limitation

(3) Where no words of limitation are used, the conveyance passes all the estate, right, title, interest, claim and demand that the conveying parties have in, to, or on the property conveyed, or expressed or intended so to be, or that they have power to convey in, to, or on the same.

Saving

(4) Subsection 3 applies only if and as far as a contrary intention does not appear from the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.

Operation  
of section

(5) This section applies only to conveyances made after the 1st day of July, 1886. R.S.O. 1960, c. 66, s. 5.

Receipts

**6.** A receipt for consideration money or securities in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any further receipt being endorsed on it. R.S.O. 1960, c. 66, s. 6.

Receipt as  
evidence for  
subsequent  
purchaser

**7.** A receipt for consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof. R.S.O. 1960, c. 66, s. 7.

Rights of  
purchaser as  
to execution

**8.** On a sale the purchaser is not entitled to require that the conveyance to him be executed in his presence or that of his solicitor, but he is entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor. R.S.O. 1960, c. 66, s. 8.

**9.** A partition of land, an exchange of land, an assignment of a chattel interest in land, and a surrender in writing of land not being an interest that might by law have been created without writing, are void at law, unless made by deed. R.S.O. 1960, c. 66, s. 9.

Requirement of deed for certain interests

**10.** A contingent, an executory, and a future interest, and a possibility coupled with an interest in land, whether the object of the gift or limitation of such interest or possibility is or is not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon land, may be disposed of by deed, but no such disposition, by force only of this Act, defeats or enlarges an estate tail. R.S.O. 1960, c. 66, s. 10.

Disposal of certain interests in land by deed

**11.** An exchange or a partition of any tenements or hereditaments does not imply any condition in law, and the word "give" or the word "grant" in a conveyance does not imply any covenant in law, except so far as the word "give" or the word "grant" may, by force of any Act in force in Ontario, imply a covenant. R.S.O. 1960, c. 66, s. 11.

Exchange or partition, "give" or "grant"

**12.** Sections 9, 10 and 11 do not extend to any deed, act or thing executed or done, or to any estate, right or interest created before the 1st day of January, 1850. R.S.O. 1960, c. 66, s. 12.

Application of ss. 9-11

**13.—(1)** Where by any letters patent, assurance or will, made and executed after the 1st day of July, 1834, land has been or is granted, conveyed or devised to two or more persons, other than executors or trustees, in fee simple or for any less estate, it shall be considered that such persons took or take as tenants in common and not as joint tenants, unless an intention sufficiently appears on the face of the letters patent, assurance or will, that they are to take as joint tenants. R.S.O. 1960, c. 66, s.13 (1); 1966, c. 25, s. 1.

Effect of grants, devises, etc., to two or more

**(2)** This section applies notwithstanding that one of such persons is the wife of another of them. R.S.O. 1960, c. 66, s. 13 (2).

Husband and wife

**14.** Where two or more persons acquire land by length of possession, they shall be considered to hold as tenants in common and not as joint tenants. R.S.O. 1960, c. 66, s. 14.

Land acquired by possession by two or more

**15.—(1)** Every conveyance of land, unless an exception is specially made therein, includes all houses, outhouses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, watercourses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever to such land belonging or in anywise appertaining, or with such land demised, held, used, occupied and enjoyed or taken or

What included in conveyance



known as part or parcel thereof, and, if the conveyance purports to convey an estate in fee simple, also the reversion and reversions, remainder and remainders, yearly and other rents, issues and profits of the same land and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever of the grantor into, out of or upon the same land, and every part and parcel thereof, with their and every of their appurtenances.

Application  
of section

(2) Except as to conveyances under former Acts relating to short forms of conveyances, this section applies only to conveyances made after the 1st day of July, 1886. R.S.O. 1960, c. 66, s. 15.

Meaning of  
“mining  
rights”

**16.** Unless the contrary appears to be the intent of the instrument, where in a conveyance the “mining rights” in respect of any land are granted or reserved, the grant or reservation shall be construed to convey or reserve the ores, mines and minerals on or under the land, together with such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1960, c. 66, s. 16.

Meaning of  
“surface  
rights”

**17.** Unless the contrary appears to be the intent of the instrument, where in a conveyance the “surface rights” in respect of any land are granted or reserved, the grant or reservation shall be construed to convey or reserve the land therein described with the exception of the ores, mines and minerals on or under the land and such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1960, c. 66, s. 17.

Application

**18.** In an instrument purporting to deal with “mining rights” or “surface rights” these expressions respectively have the meaning given them by sections 16 and 17. R.S.O. 1960, c. 66, s. 18.

Operation of  
ss. 16-18

**19.** Sections 16, 17 and 18 have effect only as to conveyances or instruments executed on or after the 1st day of July, 1914, and do not apply to conveyances by the Crown. R.S.O. 1960, c. 66, s. 19.

How  
corporations  
may convey

**20.** Any corporation capable of taking and conveying land in Ontario shall be deemed to have been and to be capable of taking and conveying land by deed of bargain and sale in like manner as a person in his natural capacity, subject to any general limitations or restrictions and to any special provisions as to holding or conveying land that are applicable to the corporation. R.S.O. 1960, c. 66, s. 20.

**21.**—(1) Where land subject to an encumbrance, whether immediately payable or not, is sold by a court or out of court, the court in which the sale takes place or the Supreme Court may, on the application of a party to the sale, direct or allow payment into court, in the case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land, of such amount as, having regard to the interest that it will earn, the court considers will be sufficient by means of the income thereof to keep down or otherwise provide for that charge, and, in any other case of capital money charged on the land, of an amount sufficient to meet the encumbrance and any interest due thereon, but in either case there shall also be paid into court such additional amount as the court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency, not exceeding one-tenth of the original amount to be paid in, unless the court for special reasons thinks fit to require a larger additional amount.

Provision for sales free from encumbrances

(2) The court may thereupon, either after or without notice to the encumbrancer, declare the land to be freed from the encumbrance, and may make any order for conveyance or vesting order proper for giving effect to the sale.

Conveyance or vesting order

(3) After notice served on the persons interested in or entitled to the money or fund in court, the court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

Directions

(4) Payment of money into court effectually exonerates therefrom the person making the payment and frees the land from the charge or encumbrance. R.S.O. 1960, c. 66, s. 21.

Effect of payment into court

**22.** Every covenant made after the 24th day of March, 1950, that but for this section would be annexed to and run with land and that restricts the sale, ownership, occupation or use of land because of the race, creed, colour, nationality, ancestry or place of origin of any person is void and of no effect. R.S.O. 1960, c. 66, s. 22.

Covenants to restrict use of land because of race, creed, etc.

**23.**—(1) In a conveyance made on or after the 1st day of July, 1886, there shall, in the cases in this section mentioned, be deemed to be included, and there shall in those cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common:

Covenants to be implied

On convey-  
ance for  
value by  
beneficial  
owner

1. In a conveyance for valuable consideration, other than a mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely, covenants for,
  - i. right to convey,
  - ii. quiet enjoyment,
  - iii. freedom from encumbrances, and
  - iv. further assurance,

according to the forms of covenants for such purposes set forth in Schedule B to *The Short Forms of Conveyances Act*, and therein numbered 2, 3, 4 and 5, subject to that Act.

R.S.O. 1970,  
c. 435

On convey-  
ance of  
leaseholds  
for value by  
beneficial  
owner

2. In a conveyance of leasehold land for valuable consideration, other than a mortgage, the following further covenant, by the person who conveys and is expressed to convey as beneficial owner:

That, notwithstanding anything by the person who so conveys, made, done, executed, or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is, at the time of conveyance, a good, valid and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and in nowise become void or voidable, and that, notwithstanding anything as aforesaid, all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under him to be paid, observed and performed, have been paid, observed and performed, up to the time of conveyance.

On convey-  
ance by  
trustee, etc.

3. In a conveyance the following covenant by every person who conveys, and is expressed to convey, as trustee or mortgagee, or as personal representative of a deceased person, or as committee of a mentally incompetent person, or under an order of the court, which covenant shall be deemed to extend to every such person's own acts only, namely:

That the person so conveying has not executed, or done, or knowingly suffered, or been party or privy to any deed, act, matter or thing, whereby or by means whereof the subject-matter of the conveyance, or any part thereof is or may be impeached, charged, affected, or encumbered in title, estate or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying such subject-matter or any part thereof, in the manner in which it is expressed to be conveyed.

4. In a conveyance by way of settlement the following covenant by a person who conveys and is expressed to convey as settlor, namely:

On settle-  
ment for  
further  
assurance,  
limited

That the person so conveying, and every person deriving title under him by deed or act or operation of law in his lifetime subsequent to that conveyance, or by testamentary disposition or devolution in law, on his death will, from time to time, and at all times, after the date of that conveyance, at the request and cost of any person deriving title thereunder, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the persons to whom the conveyance is made, and those deriving title under them, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by them or any of them shall be reasonably required.

- (2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, the person giving the direction, whether or not he conveys and is expressed to convey, as beneficial owner, shall be deemed to convey, and to be expressed to convey as beneficial owner the subject-matter so conveyed by his direction, and the covenants on his part mentioned in paragraph 1 of subsection 1 shall be implied accordingly.

On convey-  
ance by  
direction of  
beneficial  
owner

- (3) The benefit of a covenant so implied is annexed and incident to and goes with the estate or interest of the implied covenantee, and is capable of being enforced by every person in whom that estate or interest is for the whole or any part thereof from time to time vested.

Enforcing  
covenants

- (4) A covenant so implied may be varied or extended and as so varied or extended operates, as far as may be, in the like manner and with all the like incidents, effects and consequences as if such variations or extensions were directed in this section to be implied. R.S.O. 1960, c. 66, s. 23.

Variation of  
covenants

**24.—**(1) A covenant relating to land of inheritance or to land held for the life of another shall be deemed to be made with the covenantee, his heirs and assigns, and has effect as if heirs and assigns were expressed.

Operation of  
covenants,  
inheritance

(2) A covenant relating to land not of inheritance or to land not held for the life of another shall be deemed to be made with the covenantee, his executors, administrators and assigns, and has effect as if executors, administrators and assigns were expressed. R.S.O. 1960, c. 66, s. 24.

Idem,  
not of  
inheritance



Mode of  
executing  
powers

**25.**—(1) A deed executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested is, so far as respects the execution and attestation thereof, a valid execution of a power of appointment by deed or by an instrument in writing, not testamentary, notwithstanding that it is especially required that a deed or instrument in writing, made in exercise of such power, be executed or attested with some additional or other form of execution or attestation or solemnity.

Saving of  
other re-  
quirements

(2) This section does not operate to defeat any direction in the deed or instrument creating the power that the consent of a particular person is necessary to a valid execution, or that any act is performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the deed or instrument.

Power may  
be observed

(3) Nothing in this section prevents the donee of a power from executing it conformably to the power. R.S.O. 1960, c. 66, s. 25.

Disclaimer  
of power by  
donee

**26.**—(1) A person to whom a power, whether coupled with an interest or not, is given may by deed disclaim or release or contract not to exercise the power.

Disclaimers  
of power

(2) A person disclaiming is not afterwards capable of exercising or joining in the exercise of the power, and on such disclaimer the power may be exercised by the other or others or the survivor or survivors of the others of the persons to whom the power was given, unless the contrary is expressed in the instrument creating the power. R.S.O. 1960, c. 66, s. 26.

Validity of  
sale under  
power  
although  
mistaken  
payment to  
tenant for  
life

**27.** Where under a power of sale a sale in good faith is made of an estate with the timber thereon or with any articles attached thereto, and the tenant for life or any other party to the transaction is by mistake allowed to receive for his own benefit a part of the purchase money or value of the timber or article, the Supreme Court, upon an action brought or upon application made in a summary way, may declare that upon payment by the purchaser or the claimant under him of the full value of the timber or article at the time of the sale, with such interest thereon as the court directs, and the settlement of the principal money and interest under the direction of the court, upon such person as in the opinion of the court is entitled thereto, the sale ought to be established, and upon payment and settlement being made accordingly, the court may declare the sale valid, and thereupon the legal estate vests and goes in like manner as if the power had been duly executed, and the costs of the application, as between solicitor and client, shall be paid by the purchaser or the claimant under him. R.S.O. 1960, c. 66, s. 27.



**28.**—(1) No appointment made in exercise of a power or authority to appoint any property, real or personal, among several objects, is invalid or shall be impeached on the ground that an unsubstantial, illusory or nominal share only is thereby appointed to, or left unappointed to devolve upon, any one or more of the objects of such power, or upon the ground that any object of such power has been altogether excluded, but every such appointment is valid and effectual, notwithstanding that any one or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or take no share thereof, or nominal share of the property subject to such power.

Illusory appointments

(2) Nothing in this section prejudices or affects any provision in a deed, will or other instrument creating any such power that declares the amount of the share or shares from which no object of the power shall be excluded or that some one or more object or objects of the power shall not be excluded or give any validity, force or effect to any appointment, other than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to, or left unappointed, to devolve upon any object of such power. R.S.O. 1960, c. 66, s. 28.

Saving of positive requirements in constating instrument

**29.** Where a husband has issue born alive and capable of inheriting land to which his wife is entitled in fee simple and the husband survives his wife, whether such issue live or not, the husband is, subject to *The Married Women's Property Act*, entitled to an estate for his natural life in such land as has not been disposed of by her deed or will, but, if he has no such issue by his wife, he is not entitled to any further or other estate or interest in such land in the event of surviving his wife, except such as is devised to him by her will, or such as he becomes entitled to under *The Devolution of Estates Act*. R.S.O. 1960, c. 66, s. 29.

Tenancy by the curtesy

R.S.O. 1970, cc. 262, 129

**30.** A tenant by the curtesy, a dowress, a tenant for life or for years, and the guardian of the estate of an infant, are impeachable for waste and liable in damages to the person injured. R.S.O. 1960, c. 66, s. 30.

Waste by tenants by curtesy, etc.

**31.** An estate for life without impeachment of waste does not confer upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer the right expressly appears by the instrument creating the estate. R.S.O. 1960, c. 66, s. 31.

Waste by tenant for life without impeachment of waste

**32.** Tenants in common and joint tenants are liable to their co-tenants for waste, or, in the event of a partition, the part wasted may be assigned to the tenant committing the waste at the value thereof to be estimated as if no waste had been committed. R.S.O. 1960, c. 66, s. 32.

Waste between joint tenants and tenants in common

Waste by  
lessees

**33.** Lessees making or suffering waste on the demised premises without licence of the lessors are liable for the full damage so occasioned. R.S.O. 1960, c. 66, s. 33.

Release of  
part of land  
from  
rent-charge

**34.** The release from a rent-charge of part of the land charged therewith does not extinguish the whole rent-charge, but operates only to bar the right to recover any part of it out of the land released without prejudice to the rights of all persons interested in the land remaining unreleased and not concurring in or confirming the release. R.S.O. 1960, c. 66, s. 34.

Abrogation  
of doctrine  
of *scintilla*  
*juris*

**35.** Where by a deed, will or other instrument land is limited to uses, all uses thereunder, whether expressed or implied by law and whether immediate or future or contingent or executory or to be declared under any power therein contained, take effect when and as they arise by force of and by relation to the estate and seisin originally vested in the person seised to the uses, and the continued existence in him or elsewhere of any seisin to uses or *scintilla juris* are not necessary for the support of, or to give effect to, future or contingent or executory uses, nor shall any such seisin to uses or *scintilla juris* be deemed to be suspended or to remain or to subsist in him or elsewhere. R.S.O. 1960, c. 66, s. 35.

Contingent  
remainders

**36.** Every contingent remainder is capable of taking effect notwithstanding the determination by forfeiture, surrender or merger of any preceding estate of freehold. R.S.O. 1960, c. 66, s. 36.

No merger  
of estate by  
operation of  
law  
44 V., c. 5

**37.** There shall not be any merger by operation of law only of any estate, the beneficial interest in which, prior to *The Ontario Judicature Act, 1881*, would not have been deemed merged or extinguished in equity. R.S.O. 1960, c. 66, s. 37.

Lien on lands  
for improve-  
ments under  
mistake of  
title

**38.**—(1)—Where a person makes lasting improvements on land under the belief that it is his own, he or his assigns are entitled to a lien upon it to the extent of the amount by which its value is enhanced by the improvements, or are entitled or may be required to retain the land if the court is of opinion or requires that this should be done, according as may under all circumstances of the case be most just, making compensation for the land, if retained, as the court directs.

Interpre-  
tation

(2) In subsection 1, “court” means Supreme Court or the county or district court of the county or district in which the land or any part thereof is situate.

Removal of  
proceedings  
into  
Supreme  
Court

(3) Where an application under subsection 1 is made to a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district

court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

(4) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.

Transmission  
of proceed-  
ings

(5) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings shall *ipso facto* be removed into the Supreme Court.

Removal of  
proceedings

(6) An appeal lies to the Court of Appeal from any order made under this section. R.S.O. 1960, c. 66, s. 38.

Appeal

**39.** No purchase made in good faith and without fraud of any reversionary interest in property shall be opened or set aside on the ground of undervalue. R.S.O. 1960, c. 66, s. 39; 1964, c. 9, s. 2.

Rule as to  
purchases of  
reversions

**40.** It is not necessary, in order to maintain the defence of a purchase for value without notice, to prove payment of the mortgage money or purchase money or any part thereof. R.S.O. 1960, c. 66, s. 40.

Onus of  
proof

**41.** Any property may be conveyed by a person to himself jointly with another person by the like means by which it might be conveyed by him to another person, and may in like manner be conveyed or assigned by a husband to his wife, or by a wife to her husband, alone or jointly with another person. R.S.O. 1960, c. 66, s. 41.

Assignment  
of property  
to wife or  
self and  
others

**42.** A person may convey property to or vest property in himself in like manner as he could have conveyed the property to or vested the property in another person. R.S.O. 1960, c. 66, s. 42.

Conveyance  
of property  
to himself

**43.** Two or more persons, whether or not they are trustees or personal representatives, may convey and shall be deemed always to have been capable of conveying property vested in them to any one or more of themselves in like manner as they could have conveyed the property to a third party, but, if the persons in whose favour the conveyance is made are, by reason of any fiduciary relationship or otherwise, precluded from validly carrying out the transaction, the conveyance is liable to be set aside. R.S.O. 1960, c. 66, s. 43.

Two or more  
persons may  
convey to  
any one or  
more of  
themselves

Joint  
tenancy of  
corporation  
and an  
individual

**44.**—(1) A corporation is and has been capable of acquiring and holding real or personal property in joint tenancy in the same manner as if it were an individual, and, where a corporation and an individual, or two or more corporations, became or become entitled to any such property under circumstances or by virtue of any instrument that would, if the corporation had been an individual, have created a joint tenancy, they are and have been entitled to the property as joint tenants, but the acquisition and holding of property by a corporation in joint tenancy has been and is subject to the like conditions and restrictions as attach to the acquisition and holding of property by a corporation in severalty.

Devolution  
on dissolu-  
tion of  
corporate  
joint tenant

(2) Where a corporation is joint tenant of property and the corporation dissolves, the property devolves on the other joint tenant. R.S.O. 1960, c. 66, s. 44.

Effect of  
reservation  
of right of  
way or other  
easement

**45.** Where by the terms of a conveyance of land a right of way or easement is reserved or excepted from the land thereby transferred or charged, such reservation or exception is effectual and shall be deemed always to have been effectual to vest the right of way or easement in the transferor or chargor of the land notwithstanding that the transferee or chargee does not execute the instrument. R.S.O. 1960, c. 66, s. 45.

Capacity of  
posthumous  
children to  
take in  
remainder

**46.** Where an estate is, by a marriage or other settlement, limited in remainder to, or to the use of, the first or other son or sons of the body of a person lawfully begotten, with any remainder over to, or to the use of, any other person or in remainder to, or to the use of, a daughter lawfully begotten, with any remainder to any other person, any son or daughter of such person lawfully begotten or to be begotten who is born after the decease of his or her father shall, by virtue of such settlement, take such estate so limited to the first and other son or daughter in the same manner as if born in the lifetime of his or her father, although there may be no estate limited to trustees, after the decease of the father, to preserve the contingent remainder to such afterborn son or daughter, until he or she come *in esse*, or is born, to take the same. R.S.O. 1960, c. 66, s. 46.

When death  
of *cestui que*  
*vie* presumed

**47.** If a person for whose life an estate is granted remains out of Ontario or absents himself therefrom for the space of seven years together so that it cannot be ascertained whether he is alive or dead and no sufficient proof is made of the life of such person in any action commenced for recovery of such estate by the lessor or reversioner, the person upon whose life such estate depended shall be accounted as naturally dead, and in every action brought for the recovery of the estate by the lessor or reversioner, his heirs or assigns, judgment shall be given accordingly. R.S.O. 1960, c. 66, s. 47.



**48.** If a person is evicted out of land by virtue of section 47, and if afterwards the person upon whose life such estate depends returns to Ontario, or in any action to be brought for recovery of the same, is shown to be living or to have been living at the time of the eviction, the tenant or lessee who was ousted, his executors, administrators or assigns, may re-enter, repossess, have, hold and enjoy the land in his former estate, for and during the life, or so long a term as the person upon whose life the estate depends is living, and also shall, upon action to be brought by him against the lessor, reversioner, tenant in possession or other person, who, since the time of the eviction, received the profits of the land, recover for damages the full profits thereof, with lawful interest for, and from, the time that he was ousted and kept or held out of the land by such lessor, reversioner, tenant in possession or other person, whether the person upon whose life such estate depends is living or dead at the time of bringing the action. R.S.O. 1960, c. 66, s. 48.

Right of tenant when *cestui que vie* proved to be living

**49.—(1)** The Supreme Court may, on the application of a person who has a claim or demand in, or to, any remainder, reversion, or expectancy, in, or to, any estate in land, after the death of a person within age, married woman, or any other person whomsoever, upon affidavit made by the person so claiming such estate of his title, and that he has cause to believe that such minor, married woman or other person is dead, and that his or her death is concealed by the guardian, trustee, husband or other person, which application may be made once a year if the person aggrieved thinks fit, order that such guardian, trustee, husband or other person concealing, or suspected to conceal, such person, do, at such time and place as the court directs, on personal or other due service of such order, produce and show to such person and persons, not exceeding two, as shall in such order be named by the party prosecuting such order, such minor, married woman or other person.

Order for production of person at instance of reversioner, etc.

(2) If such guardian, trustee, husband or other person refuses or neglects to produce or show such minor, married woman or other person on whose life any such estate depends according to the directions of the order, the court is hereby authorized and required to order such guardian, trustee, husband or other person to produce such minor, married woman, or other person concealed, in the court or otherwise before commissioners to be appointed by the court at such time and place as the court directs, two of which commissioners shall be nominated by the party prosecuting such order, at his costs and charges.

Order for production of person before commissioner

(3) If such guardian, trustee, husband or other person refuses or neglects to produce such minor, married woman, or other person so concealed, in court or before such commissioners, whereof return shall be made by such commissioners and filed in

Presumption on failure to produce



the office of the Registrar of the Supreme Court at Osgoode Hall, in either, or any, of such cases, such minor, married woman or other person shall be taken to be dead, and it is lawful for any person claiming any right, title, or interest, in remainder or reversion, or otherwise, after the death of such minor, married woman or other person to enter upon such land as if such minor, married woman or other person were actually dead. R.S.O. 1960, c. 66, s. 49.

Where  
person  
required to  
be produced  
is out of  
Ontario

**50.** If it appears to the court by affidavit that such minor, married woman or other person is, or lately was, at some certain place out of Ontario in the affidavit mentioned, the party prosecuting such order, at his costs and charges, may send over one or both of the persons appointed by the order to view such minor, married woman or other person, and if such guardian, trustee, husband or other person, concealing, or suspected to conceal, such person, refuses or neglects to produce, or procure to be produced to such person or persons a personal view of such minor, married woman or other person, then such person or persons shall make a true return of such refusal or neglect to the court, which shall be filed in the office of the Registrar of the Supreme Court at Osgoode Hall and thereupon such minor, married woman or other person shall be taken to be dead, and any person claiming any right, title or interest in remainder, reversion or otherwise, after the death of such minor, married woman or other person, may enter upon such land as if such minor, married woman or other person were actually dead. R.S.O. 1960, c. 66, s. 50.

When it  
appears that  
person  
required to  
be produced  
was alive

**51.** If it afterwards appears, upon proof in an action to be brought, that such minor, married woman or other person was alive at the time such order was made, such minor, married woman, guardian, trustee or other person having any estate or interest determinable upon such life may re-enter upon the land and may maintain an action against those who, since the order, received the profits thereof, or their executors or administrators, and recover full damages for the profits of the same received from the time that such minor, married woman or other person having an estate or interest determinable upon such life was ousted of the possession of such land. R.S.O. 1960, c. 66, s. 51.

When it  
appears that  
guardian  
etc., cannot  
produce  
person who  
is alive

**52.** If any such guardian, trustee, husband or other person holding or having any estate or interest determinable upon the life of any other person shows to the satisfaction of the court that he has used his utmost endeavour to procure such minor, married woman or other person on whose life such estate or interest depends to appear in court or elsewhere according to the order, and that he cannot procure or compel such appearance, and that such minor, married woman or other person is living or was living

at the time such return was made and filed, the court may order that such person may continue in the possession of such estate and receive the rents and profits thereof during the infancy of such minor and the life of any other person on whose life such estate or interest next depends as fully as he might have done if this section and sections 49, 50 and 51 had not been enacted. R.S.O. 1960, c. 66, s. 52.

**53.** Every person having an estate or interest in land determinable upon a life and the guardian or trustee for a minor having such an estate who, after the determination of such particular estate or interest, without the express consent of the person who is next and immediately entitled upon and after the determination of such particular estate or interest, holds over and continues in possession of any land, shall be deemed a trespasser, and every person entitled to any such land upon and after the determination of such particular estate or interest may recover in damages against every such person so holding over the full value of the profits received during such wrongful possession. R.S.O. 1960, c. 66, s. 53.

Guardians, trustees, etc., holding over without consent of re-mainderman, etc., deemed trespassers

**54.—**(1) Any absolute assignment made on or after the 31st day of December, 1897, by writing under the hand of the assignor, not purporting to be by way of charge only, of any debt or other legal chose in action of which express notice in writing has been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action is effectual in law, subject to all equities that would have been entitled to priority over the right of the assignee if this section had not been enacted, to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same without the concurrence of the assignor.

Assignments of debts and choses in action

(2) In the case of an assignment of a debt or other chose in action, if the debtor, trustee or other person liable in respect of the debt or chose in action has had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he is entitled, if he thinks fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he thinks fit, pay the same into the Supreme Court under and in conformity with the provisions of law for the relief of trustees. R.S.O. 1960, c. 66, s. 54.

Where several claimants under assignment

**55.—**(1) The bonds or debentures of a corporation made payable to bearer, or to a person named therein or bearer, may be transferred by delivery, and if payable to a person or order, after general endorsement thereof by such person, are transferable by delivery.

Bonds and debentures of corporations

Rights of  
holder

(2) Any such transfer vests the property in the bond or debenture in the holder thereof and enables him to maintain an action thereon in his own name. R.S.O. 1960, c. 66, s. 55.

Auctions of  
estates when  
sale deemed  
without  
reserve

**56.** Unless in the particulars or conditions of sale by auction of land it is stated that the land will be sold subject to a reserved price or to a right of the seller to bid, the sale shall be deemed to be without reserve. R.S.O. 1960, c. 66, s. 56.

Prohibition  
against seller  
bidding

**57.** Upon a sale of land by auction, without reserve, it is not lawful for a seller or for a puffer to bid at the sale, or for the auctioneer to take, knowingly, any bidding from the seller or from a puffer. R.S.O. 1960, c. 66, s. 57.

When seller  
may bid

**58.** Upon a sale of land by auction, subject to a right of the seller to bid, it is lawful for the seller or any one puffer to bid at the auction in such manner as the seller thinks proper. R.S.O. 1960, c. 66, s. 58.

Seller not  
authorized to  
purchase

**59.** Nothing in sections 56, 57 and 58 authorizes a seller to become the purchaser at the sale. R.S.O. 1960, c. 66, s. 59.

Liability of  
vendor or  
mortgagor  
for fraudu-  
lent conceal-  
ment of  
deeds, etc.,  
or falsifying  
pedigree

**60.** If a seller or mortgagor of property or his solicitor or agent conceals any settlement, deed, will or other instrument material to the title, or any encumbrance, from the purchaser or mortgagee, or falsifies any pedigree upon which the title depends or may depend, in order to induce him to accept the title offered or produced to him, with intent to defraud, such seller, mortgagor, solicitor or agent, irrespective of any criminal liability he may thereby incur, is liable at the suit of the purchaser or mortgagee or those claiming under him for any loss sustained by them or either or any of them in consequence of the settlement, deed, will or other instrument or encumbrance so concealed, or of any claim made by any person under such pedigree whose right was so concealed by the falsification of such pedigree, and, in the case of land, in estimating such damages where the property is recovered from such purchaser or mortgagee or from those claiming under him, regard shall be had to any expenditure by them, or either or any of them, in improvements on the land. R.S.O. 1960, c. 66, s. 60.

Orders of  
court,  
effect

**61.** An order of the court under any statutory or other jurisdiction shall not, as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service. R.S.O. 1960, c. 66, s. 61.

**62.**—(1) Where there is annexed to land a condition or covenant that the land or a specified part of it is not to be built on or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land, any such condition or covenant may be modified or discharged by order of a judge of the Supreme Court or of the judge of the county or district court of the county or district in which the land or any part of it is situate.

Restrictive covenants, modification or discharge of

(2) Where an application under subsection 1 is made to the judge of a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

Removal of proceedings into Supreme Court

(3) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.

Transmission of proceedings

(4) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings shall *ipso facto* be removed into the Supreme Court.

Removal of proceedings

(5) Before making any such order, the judge shall cause notice of the application to be given to such persons as appear to him to be interested in the relief sought, either by personal service, advertisement or by registered mail as he directs.

Notice of application

(6) An appeal lies to the Court of Appeal from the decision of a judge under subsection 1.

Appeal

(7) Nothing in this section applies to building restrictions imposed by a by-law passed under *The Municipal Act* or *The Planning Act*. R.S.O. 1960, c. 66, s. 62.

Exception  
R.S.O. 1970, cc. 284, 349

**63.**—(1) In this section,

Interpretation

- (a) “employee” means an employee or former employee who is participating in a plan;
- (b) “employer” includes the trustee under a plan;
- (c) “plan” means an employee pension, retirement, welfare or profit-sharing fund or plan.

(2) Where in accordance with the terms of a plan an employee has designated a person or persons to receive a benefit payable under the plan in the event of the employee’s death,

Appointments of beneficiaries under employee benefit plans validated

- (a) the employer is discharged upon paying to such person or persons the amount of the benefit;



- (b) such person or persons may upon the death of the employee enforce payment of the benefit, but the employer is entitled to set up any defence that he could have set up against the employee or his personal representatives.

Change of  
designation

- (3) An employee may from time to time alter or revoke a designation made under a plan, but any such alteration or revocation may be made only in the manner set forth in the plan.

Application  
R.S.O. 1970,  
c. 224

- (4) This section does not apply to a designation of a beneficiary to which *The Insurance Act* applies. R.S.O. 1960, c. 66, s. 63.
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## CHAPTER 86

### The Co-operative Loans Act

**1.** In this Act,

- (a) “Board” means The Co-operative Loans Board of Ontario; Interpre-  
tation
- (b) “co-operative association” means a co-operative corporation of producers of farm products to which Part V of *The Corporations Act* applies and which was incorporated for the purpose of grading, cleaning, packing, storing, drying, processing or marketing farm products; R.S.O. 1970,  
c. 89
- (c) “farm products” includes animals, meats, eggs, poultry, wool, dairy products, grains, seeds, fruit, fruit products, vegetables, vegetable products, maple products, honey, tobacco and such articles of food or drink manufactured or derived in whole or in part from any such product and such other natural products of agriculture as are designated by the regulations;
- (d) “Minister” means the Minister of Agriculture and Food;
- (e) “regulations” means the regulations made under this Act;
- (f) “Treasurer” means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 67, s. 1, *amended*; 1966, c. 26, s. 1.

**2.—(1)** The Co-operative Loans Board of Ontario, a corporation without share capital that was constituted on behalf of Her Majesty in right of Ontario by *The Co-operative Loans Act, 1956*, is continued. Board  
continued  
1956, c. 11

(2) The Board shall be composed of such three persons in the public service of Ontario as the Lieutenant Governor in Council appoints. Composition

(3) The Lieutenant Governor in Council may designate one of the members as chairman and one as vice-chairman of the Board. Chairman,  
vice-  
chairman

(4) The Lieutenant Governor in Council may from time to time fill any vacancy in the membership of the Board. Vacancies

(5) A majority of the members of the Board constitutes a quorum.

Staff (6) The staff of the Board may consist of a secretary and such other officers and servants as are appointed from time to time under *The Public Service Act* for the purposes of the Board.

R.S.O. 1970,  
c. 386

Assistance (7) In the administration of its affairs the Board may be assisted by such persons in the public service of Ontario as the Treasurer assigns for the purpose.

By-laws (8) Subject to the approval of the Lieutenant Governor in Council, the Board may make by-laws for the conduct of its affairs.

Annual report (9) The Board shall make a report annually to the Minister of all loans made during the previous year and of such other matters relating to the work of the Board as the Minister requires.

Idem (10) A copy of the report shall be filed with the Provincial Secretary, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 67, s. 2.

Conditions  
of loan

**3.** No loan shall be made to a co-operative association unless an agreement is entered into by the co-operative association and the Minister in the form prescribed in the regulations providing such limitations and conditions as will ensure that the control of the management and operation of the co-operative association will remain in the producers until the loan is repaid. R.S.O. 1960, c. 67, s. 3.

Power to  
make loans

**4.—**(1) The Lieutenant Governor in Council may make a loan to any co-operative association to enable it to carry out its objects to an amount not exceeding 50 per cent of the value of the real property of the co-operative association on which the loan is to be made, but in no case shall a loan be made that would result in the co-operative association's total indebtedness under this Act exceeding \$100,000. R.S.O. 1960, c. 67, s. 4 (1); 1966, c. 26, s. 2.

Application

(2) A loan shall be made to a co-operative association only on its application to the Board in the form prescribed in the regulations. R.S.O. 1960, c. 67, s. 4 (2).

Security for  
loan  
R.S.O. 1970,  
c. 437

**5.—**(1) Every loan shall be secured by a first mortgage on the real property of the co-operative association made in favour of the Treasurer in accordance with *The Short Forms of Mortgages Act*.

Rights and  
powers of  
treasurer

(2) Every mortgage may contain such covenants, provisos and conditions as the Treasurer considers proper, and the Treasurer has and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act that a mortgagee has and may exercise under the laws of Ontario.

(3) All notices, mortgages, discharges and other documents that may be made under this Act, except an agreement made with the Minister, shall be prepared by a person designated by the Treasurer.

Preparation  
of documents

(4) In addition to the security required by subsection 1, every loan may be further secured at the time the loan is made by a chattel mortgage to the Treasurer on such chattels of the co-operative association as the Board determines. R.S.O. 1960, c. 67, s. 5.

Additional  
security

**6.**—(1) Where a co-operative association sells its interest in lands that are subject to a mortgage under this Act to any person, all moneys owing respecting such mortgage both as to principal and interest to the date of the sale thereupon become due and payable unless the Minister approves the assumption of the mortgage by the purchaser, and such approval may be on such terms and conditions as the Minister determines.

Assumption  
of mortgage  
on sale

(2) Where the assumption of a mortgage is approved under subsection 1, the Treasurer may make such releases and discharges as he considers proper respecting the liabilities of the co-operative association that sold its interest in the lands.

Releases re  
original  
mortgagor

(3) An approval of the assumption of a mortgage under subsection 1 shall be deemed not to be the making of a loan to the purchaser for the purposes of section 4. 1966, c. 26, s. 3.

Mortgage  
assumed  
may increase  
total  
beyond  
maximum

**7.**—(1) The rate of interest payable on a loan under this Act shall be determined by the Lieutenant Governor in Council at the time the loan is made.

Rate of  
interest

(2) Repayment of a loan shall be commenced not later than one year from the date of the making of the loan and the terms of repayment shall provide that at least 50 per cent of the principal will be repaid within ten years and that the remaining 50 per cent will be repaid within twenty years from such date, and every agreement shall contain provisions to ensure such repayment.

Repayment  
of loan

(3) Subject to subsection 2, any part of the principal outstanding may be repaid at any time at the option of the co-operative association. R.S.O. 1960, c. 67, s. 6.

Acceleration

**8.** Every co-operative association that has a loan under this Act shall make such annual or other reports, returns and statements to the Board as the regulations prescribe. R.S.O. 1960, c. 67, s. 7.

Returns

**9.** Every co-operative association that has a loan under this Act shall by notice, given to the Board in the same manner as notice of meetings is given to its members or shareholders, inform the Board of the time and place of every meeting of its members or shareholders and the Board or its representative may attend any such meeting. R.S.O. 1960, c. 67, s. 8.

Notice of  
meeting

Board may  
require  
meeting

**10.** If required by the Board, the board of directors of a co-operative association that has a loan under this Act shall call a meeting of its directors or members or shareholders at such time and place as the Board directs for the purpose of inquiring into its affairs. R.S.O. 1960, c. 67, s. 9.

Inspection  
of books, etc.

**11.**—(1) The Treasurer may appoint a person to inspect the books, accounts and property of any co-operative association that has a loan under this Act and may empower such person to summon witnesses and enforce the production of documents before him and take evidence upon oath.

Idem

(2) The Board may inspect the property of any co-operative association that has a loan under this Act and may order such alterations or repairs to be made to such property for the purpose of better securing the loan. R.S.O. 1960, c. 67, s. 10.

Extension  
of Act

**12.** The Lieutenant Governor in Council may extend the application of this Act to any corporation for the purpose of enabling it to provide cold storage facilities for the producers of farm products if more than 50 per cent of the issued shares of its capital stock is held by producers of farm products, and in any such case the corporation shall be deemed to be a co-operative association for the purposes of this Act. R.S.O. 1960, c. 67, s. 11.

Extension  
of Act

**13.** Where a co-operative association that has erected a building or other structure on lands owned by a railway company and entered into a lease of the lands for a term of at least twenty years applies to the Board for,

- (a) a loan, and the amount of the loan applied for is more than 50 per cent of the value of the real property of the co-operative association; or
- (b) a guarantee of loan,

the Lieutenant Governor in Council may extend the application of this Act to the co-operative association on such terms as he considers proper, and in any such case the lease shall be deemed to be real property for the purposes of this Act. 1962-63, c. 23, s. 1, *part.*

Idem

R.S.O. 1970,  
c. 162

**14.** The Lieutenant Governor in Council may extend the application of this Act to The Ontario Flue-Cured Tobacco Growers' Marketing Board, established under *The Farm Products Marketing Act*, for the purpose of enabling it to carry out the purposes of the plan under which it was established, and, notwithstanding section 5, the security for any loan to, or guarantee of any bank loan on behalf of, The Ontario Flue-Cured Tobacco Growers' Marketing Board may be other than by a first mortgage on the real property of The Ontario Flue-Cured Tobacco Growers' Marketing Board. 1962-63, c. 23, s. 1, *part.*



**15.**—(1) The Lieutenant Governor in Council may upon such terms as he considers proper agree to guarantee and may guarantee the payment of any loan and the interest thereon made to a co-operative association, and the form and manner of the guarantee shall be such as the Lieutenant Governor in Council approves, and the guarantee shall be signed by the Treasurer or such other officer or officers as are designated by the Lieutenant Governor in Council, and, upon being so signed, the Province of Ontario is liable for the payment of the loan and interest thereon guaranteed according to the terms of the guarantee, and the Lieutenant Governor in Council may make arrangements for supplying the money necessary to fulfill the requirements of any guarantee and to advance the amount necessary for that purpose out of the public funds of the Province of Ontario and any guarantee so signed is conclusive evidence that the terms of this section have been complied with. Guarantee  
of loans

(2) Sections 3, 5, 8, 9, 10 and 11 relating to loans apply *mutatis mutandis* to guarantees made under this section. R.S.O. 1960, c. 67, s. 12. Application  
of ss. 3, 5,  
8-11

**16.** Every subsisting loan and guarantee of bank loan made under a predecessor of this Act shall be deemed to have been made under this Act. R.S.O. 1960, c. 67, s. 13. Existing  
loans and  
guarantees

**17.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) designating any article of food or drink manufactured or derived in whole or in part from a farm product and any natural product of agriculture to be a farm product;
  - (b) prescribing the annual or other reports, returns and statements that co-operative associations that have loans under this Act shall make to the Board;
  - (c) prescribing forms and providing for their use;
  - (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 67, s. 14.
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## CHAPTER 87

**The Coroners Act**

**1.**—(1) The Lieutenant Governor in Council may appoint one or more coroners for Ontario or any part thereof who, subject to subsections 2 and 3, shall hold office during pleasure. Appointment of coroners

(2) A coroner ceases to hold office,

Tenure

(a) upon attaining the age of seventy years; or

(b) where he is a member of the College of Physicians and Surgeons of Ontario, upon the erasure of his name from the register under *The Medical Act*.

R.S.O. 1970,  
c. 268

(3) The appointment of a coroner who is a member of the College of Physicians and Surgeons is suspended during any period that his registration is suspended under *The Medical Act*. 1966, c. 27, s. 1 (1). Suspension

**2.**—(1) The Lieutenant Governor in Council may appoint a coroner for Ontario, to be known as the supervising coroner, who shall act in a supervisory and advisory capacity to coroners and who shall have such other powers and perform such other duties as the regulations prescribe. R.S.O. 1960, c. 69, s. 2 (1); 1960-61, c. 12, s. 2 (1). Supervising coroner, appointment

(2) The Lieutenant Governor in Council may appoint an executive officer and a secretary to the office of the supervising coroner and they shall perform such functions as the regulations prescribe or the supervising coroner directs. staff

(3) In lieu of fees, the supervising coroner, the executive officer and the secretary shall be paid out of the Consolidated Revenue Fund such salaries as the Lieutenant Governor in Council fixes. 1960-61, c. 12, s. 2 (2, 3). salary

**3.**—(1) The Lieutenant Governor in Council may appoint a coroner, to be known as chief coroner, for any city having a population of more than 100,000, who shall have control over the coroners for the city and who shall have such other powers and perform such other duties as the regulations prescribe. Chief coroners, appointment

(2) In lieu of fees, every chief coroner shall be paid half-yearly by the corporation of the city such salary as the Lieutenant Governor in Council fixes. salaries

secretary

(3) Where the chief coroner of a city is also the supervising coroner and the corporation of the city has appointed or appoints a secretary for him, the corporation shall be reimbursed quarterly out of the Consolidated Revenue Fund to the extent of one-third of the salary of such secretary and one-third of the amount, if any, paid by the corporation under the civic pension fund or plan in respect of such secretary.

technicians

(4) The corporation of a city may appoint one or more persons as technicians to assist the coroners for the city in the performance of their duties. R.S.O. 1960, c. 69, s. 3.

Metro  
Toronto

(5) The Municipality of Metropolitan Toronto shall be deemed to be a city for the purposes of this section. 1961-62, c. 20, s. 1.

Appoint-  
ments to  
be filed

**4.** A certified copy of the order appointing a coroner shall be sent by the Inspector of Legal Offices to the clerk of the peace of the county or district in which the coroner is to act, and shall be filed by him in his office. R.S.O. 1960, c. 69, s. 4.

Extended  
jurisdiction

**5.—(1)** The Minister of Justice and Attorney General may in writing direct any coroner to act in any designated municipality or provisional judicial district in addition to the municipality or district for which he was appointed, and a coroner to whom such direction is given has the same powers and shall perform the same duties in the designated municipality or district as a coroner appointed for the designated municipality or district. R.S.O. 1960, c. 69, s. 5, *amended*.

Investiga-  
tions by  
coroner  
outside his  
jurisdiction

(2) The supervising coroner may direct a coroner who is appointed for part of Ontario to perform the duties of a coroner in respect of a particular death in a part of Ontario that is outside the part for which he is appointed. 1965, c. 20, s. 1.

Where  
provincial  
judge  
may act

**6.** The Minister of Justice and Attorney General or the Crown attorney for the district may in writing direct any provincial judge in a provisional judicial district to act as a coroner for the district, and a provincial judge to whom such direction is given has the same powers and shall perform the same duties in the district as a coroner appointed for the district. R.S.O. 1960, c. 69, s. 6, *amended*.

Duty to  
give  
information

**7.—(1)** Every person who has reason to believe that a deceased person died,

- (a) as a result of,
  - (i) violence,
  - (ii) misadventure,
  - (iii) negligence,
  - (iv) misconduct, or

- (v) malpractice;
- (b) by unfair means;
- (c) during pregnancy or following pregnancy in circumstances that might reasonably be attributable thereto;
- (d) suddenly and unexpectedly;
- (e) from disease or sickness for which he was not treated by a legally qualified medical practitioner;
- (f) from any cause other than disease; or
- (g) under such circumstances as may require investigation,

shall immediately notify a coroner of the facts and circumstances relating to the death. 1960-61, c. 12, s. 3.

(2) A statement as to the notification or non-notification of a coroner under subsection 1, purporting to be certified by the coroner, is, without proof of the appointment or signature of the coroner, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1965, c. 20, s. 2.

Certificate  
as evidence

**8.** No person shall knowingly obstruct a coroner in the execution of his duties. 1966, c. 27, s. 2.

Obstruction  
of coroner

**9.** Where there is reason to believe that a person died in any of the circumstances mentioned in section 7, the body of the deceased shall not be embalmed or cremated and no chemical shall be applied to it externally or internally and no alteration of any kind shall be made to it until the coroner so directs. R.S.O. 1960, c. 69, s. 8.

No embal-  
ing, etc.,  
of body

**10.—(1)** No person shall accept for shipment or ship a dead body from any place in Ontario to any place outside Ontario unless a certificate of a coroner has been obtained certifying that there exists no reason for further examination of the body.

Shipment  
of bodies  
outside  
Ontario

(2) An applicant for a certificate under subsection 1 shall pay to the coroner such fee as is prescribed by the Lieutenant Governor in Council by regulation.

Fee for  
certificate

(3) No person who has reason to believe that a dead body will be shipped to a place outside Ontario shall embalm or make any alteration to the body or apply any chemical to the body, internally or externally, until the certificate required by subsection 1 has been issued. 1966, c. 27, s. 3.

Embalming,  
etc.,  
prohibited

**11.** Every person who contravenes section 7, 8, 9 or 10 is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. 1966, c. 27, s. 4.

Offence

Warrant for possession of body; investigation

**12.**—(1) Where a coroner is informed that there is in his jurisdiction the body of a person and that there is reason to believe that the person died in any of the circumstances mentioned in section 7, he shall issue his warrant to take possession of the body and shall view the body and make such further investigation as is required to enable him to determine whether or not an inquest is necessary. R.S.O. 1960, c. 69, s. 10 (1).

Experts

(2) The coroner may, with the consent of the Crown attorney or supervising coroner, employ experts to assist him in the investigation. R.S.O. 1960, c. 69, s. 10 (2); 1966, c. 27, s. 5.

Jurisdiction

(3) After the issue of the warrant, no other coroner shall issue a warrant or interfere in the case, except the supervising coroner or except under the instructions of the Minister of Justice and Attorney General or the Crown attorney. R.S.O. 1960, c. 69, s. 10 (3); 1965, c. 20, s. 3, *amended*.

Coroner may delegate powers of investigation

**13.**—(1) A coroner may authorize and direct a legally qualified medical practitioner, provincial judge or police officer to take possession of a body, view the body and make such investigation as may be required to enable the coroner to determine whether or not an inquest is necessary and to report to him. 1960-61, c. 12, s. 4, *amended*.

Coroner to decide if inquest necessary

(2) Upon receipt of the report, the coroner shall proceed as if he himself had viewed the body and made the investigation. R.S.O. 1960, c. 69, s. 11 (2).

Warrant for burial where inquest unnecessary

**14.**—(1) Where the coroner determines that an inquest is unnecessary, he shall issue his warrant to bury the body, and shall forthwith transmit to the Crown attorney and the supervising coroner a signed statement setting forth briefly the result of the investigation and the grounds on which the warrant has been issued, and shall also forthwith transmit to the division registrar a notice of the death in the form prescribed by *The Vital Statistics Act*. R.S.O. 1960, c. 69, s. 12 (1); 1960-61, c. 12, s. 5; 1965, c. 20, s. 4 (1).

R.S.O. 1970, c. 483

Crown may direct inquest

(2) Notwithstanding that the matters mentioned in subsection 1 have taken place, the Minister of Justice and Attorney General, the supervising coroner or the Crown attorney may direct the coroner who determined that an inquest was unnecessary, or some other coroner, to hold an inquest upon the body, and the coroner to whom the direction is given shall forthwith issue his warrant for an inquest and hold it accordingly. R.S.O. 1960, c. 69, s. 12 (2); 1965, c. 20, s. 4 (2), *amended*.

Warrant for inquest

**15.** Where the coroner determines that an inquest is necessary, he shall issue his warrant for an inquest, and shall forthwith



transmit to the Crown attorney and the supervising coroner a signed statement setting forth briefly the result of the investigation and the grounds upon which he determined that an inquest should be held. R.S.O. 1960, c. 69, s. 13; 1960-61, c. 12, s. 6; 1965, c. 20, s. 5.

**16.**—(1) Where a coroner has issued his warrant to take possession of a body in his jurisdiction and it appears that the death resulted from any of the circumstances mentioned in section 7 and that such circumstances occurred at a place beyond his jurisdiction, he shall take possession of the body and shall view the body and make such further investigation as is required to enable him to determine whether or not a *post mortem* examination is required, and shall, with the consent of the Crown attorney in his jurisdiction, transfer the investigation to a coroner having jurisdiction in the place where the circumstances occurred.

Circumstances of death occurring outside jurisdiction

(2) The coroner to whom the investigation is transferred shall proceed with the investigation in the same manner as if he had issued the warrant to take possession of the body.

Investigation and inquest

(3) The coroner who refers an investigation to a coroner in another jurisdiction shall notify the supervising coroner of the transfer, and the supervising coroner shall assist in the transfer upon request.

Notification of supervising coroner

(4) The coroner who refers an investigation to a coroner in another jurisdiction shall transmit to him the report of the *post mortem* examination of the body, his signed statement setting forth briefly the result of his investigation and any written evidence to prove the fact of death and the identity of the body, and the report, signed statement and written evidence are admissible in evidence at any inquest that may be held. 1965, c. 20, s. 6.

Transmitting results of first investigation

**17.** Where a coroner has reason to believe that a death has occurred in circumstances that warrant the holding of an inquest but, owing to the destruction of the body in whole or in part or to the fact that the body is lying in a place from which it cannot be recovered, or that the body has been removed from Ontario, an inquest cannot be held except by virtue of this section, he shall report the facts to the Minister of Justice and Attorney General who may direct an inquest to be held touching the death, in which case an inquest shall be held by the coroner making the report or by such other coroner as the Minister of Justice and Attorney General directs, and the law relating to coroners and coroners' inquests applies with such modifications as are necessary in consequence of the inquest being held otherwise than on or after a view of the body. R.S.O. 1960, c. 69, s. 16, *amended*.

Where body destroyed or removed from Ontario

Minister of  
Justice and  
Attorney  
General  
may direct  
coroner to  
hold  
inquest

**18.** Where the Minister of Justice and Attorney General has reason to believe that a death has occurred in Ontario in circumstances that warrant the holding of an inquest, he may direct any coroner to hold an inquest and the coroner shall hold the inquest into the death in accordance with this Act, whether or not his commission extends to the place where the death occurred or where the body is located and whether or not he or any other coroner has viewed the body, made an investigation, held an inquest or done any other act in connection with the death. R.S.O. 1960, c. 69, s. 17, *amended*.

Where  
criminal  
offence  
charged

**19.**—(1) Where a person is charged with a criminal offence arising out of a death, an inquest touching the death shall be held only upon the direction of the Minister of Justice and Attorney General.

Idem

(2) Where during an inquest a person is charged with a criminal offence arising out of the death, the coroner shall discharge the jury and close the inquest, and shall then proceed as if he had determined that an inquest was unnecessary, but the Minister of Justice and Attorney General may direct that the inquest be reopened. R.S.O. 1960, c. 69, s. 18, *amended*.

When  
coroner  
disqualified

**20.**—(1) No coroner shall conduct an inquest upon the body of a person whose death has occurred on a railway or at a mine or other business, undertaking or work that he owns in whole or in part or that is owned or operated by a company in which he is a shareholder, or in respect of which he is employed as medical attendant, or in any other capacity by the owner thereof, or under any agreement or understanding, direct or indirect, with the employees thereof. R.S.O. 1960, c. 69, s. 19 (1); 1960-61, c. 12, s. 8.

Penalty for  
contra-  
vention

(2) A coroner who conducts an inquest in contravention of this section, is guilty of an offence and on summary conviction is liable to a fine of not less than \$100 and not more than \$500.

Limitation

(3) No prosecution shall be commenced under this section more than one year after the inquest was held. R.S.O. 1960, c. 69, s. 19 (2, 4), *amended*.

Power of  
coroner to  
take charge  
of wreckage

**21.**—(1) Where a coroner has issued his warrant to take possession of the body of a person who has met death by violence in a wreck, the coroner may, with the approval of the supervising coroner, take charge of the wreckage and place one or more constables in charge of it so as to prevent persons from disturbing it until the jury at the inquest has viewed it, or the coroner has made such examination as he considers necessary. R.S.O. 1960, c. 69, s. 20 (1); 1965, c. 20, s. 7.

(2) The jury or coroner, as the case may be, shall view the wreckage at the earliest moment possible. R.S.O. 1960, c. 69, s. 20 (2). View to be expedited

- 22.** Where a person dies while resident or an in-patient in,
- (a) a charitable institution as defined in *The Charitable Institutions Act*; Deaths to be reported  
R.S.O. 1970,  
c. 62
  - (b) a children's boarding home as defined in *The Children's Boarding Homes Act*; R.S.O. 1970,  
c. 65
  - (c) a children's institution as defined in *The Children's Institutions Act*; R.S.O. 1970,  
c. 66
  - (d) a home for the aged to which *The Homes for the Aged and Rest Homes Act* applies; R.S.O. 1970,  
c. 206
  - (e) a home for retarded persons as defined in *The Homes for Retarded Persons Act*; R.S.O. 1970,  
c. 204
  - (f) a psychiatric facility designated under *The Mental Health Act*; R.S.O. 1970,  
c. 269
  - (g) a nursing home to which *The Nursing Homes Act* applies; R.S.O. 1970,  
c. 302
  - (h) a children's mental health centre under *The Children's Mental Health Centres Act*; R.S.O. 1970,  
c. 68
  - (i) a public or private hospital to which the person was transferred from a hospital, institution or home referred to in clause a to h,

the person in charge of the hospital, institution or home shall immediately give notice of the death to a coroner, and the coroner shall investigate the circumstances of the death and, if as a result of the investigation he is of the opinion that an inquest ought to be held, he shall issue his warrant and hold an inquest upon the body. 1966, c. 27, s. 6, *amended*.

**23.** Where a person dies while in the custody of an officer of a correctional institution or lock-up or while a ward of a training school, the officer in charge thereof shall immediately give notice of the death to a coroner and the coroner shall issue his warrant and hold an inquest upon the body. R.S.O. 1960, c. 69, s. 22; 1965, c. 20, s. 8, *amended*. Death of person in correctional institution, etc

**24.—**(1) A coroner may at any time during an investigation or inquest issue his warrant for a *post mortem* examination of the body, an analysis of the blood, urine, or the contents of the stomach and intestines, or such other examination or analysis as the circumstances warrant. 1960-61, c. 12, s. 9, *part*. Post mortem examinations and analyses

(2) The person who performs the *post mortem* examination shall forthwith report his findings in writing to the coroner who issued the warrant and shall send a copy of the report to the supervising coroner. 1965, c. 20, s. 9. Report

Where  
inquest  
deemed un-  
necessary

(3) Where a coroner has determined that an inquest is unnecessary, he shall not thereafter issue his warrant for a *post mortem* examination or analysis without the consent in writing of the Minister of Justice and Attorney General, the Crown attorney or the supervising coroner. 1960-61, c. 12, s. 9, *part, amended*.

Notice to  
Crown  
attorney

**25.**—(1) Every coroner before holding an inquest shall notify the Crown attorney of the time and place at which it is to be held and the Crown attorney may, and if directed by the Minister of Justice and Attorney General shall, attend the inquest and may examine or cross-examine the witnesses.

Special  
counsel

(2) The Minister of Justice and Attorney General may be represented at an inquest by counsel in addition to or in lieu of the Crown attorney, and such counsel has the same powers as the Crown attorney under subsection 1. R.S.O. 1960, c. 69, s. 24, *amended*.

Witnesses

**26.**—(1) The coroner shall summon such persons to attend an inquest as he considers advisable or as are directed by the supervising coroner, the Crown attorney or the counsel for the Minister of Justice and Attorney General. R.S.O. 1960, c. 69, s. 25(1); 1965, c. 20, s. 10, *amended*.

Powers of  
coroners re  
witnesses

(2) In addition to the other powers that he possesses, a coroner has the same power to issue summonses to witnesses, to enforce their attendance and to punish for non-attendance or refusing to give evidence as is possessed by the Supreme Court. R.S.O. 1960, c. 69, s. 25 (2).

Fine for  
non-  
attendance

(3) A fine imposed for non-attendance or refusal to give evidence shall not, in the case of a medical practitioner, exceed \$500, and in the case of any other witness shall not exceed \$100. R.S.O. 1960, c. 69, s. 25 (3); 1966, c. 27, s. 7.

Answer not  
receivable  
against  
witness

(4) A witness shall be deemed to have objected to answer any question upon the ground that his answer may tend to criminate him or may tend to establish his liability to a civil proceeding at the instance of the Crown, or of any person, and the answer so given shall not be used or be receivable in evidence against him in any trial or other proceeding against him thereafter taking place, other than a prosecution for perjury in giving such evidence. R.S.O. 1960, c. 69, s. 25 (4).

Juries

**27.**—(1) Except as provided in subsection 4, every inquest shall be held with a jury. 1965, c. 20, s. 11.

Jurors

(2) The number of jurors to be summoned to serve on an inquest shall be five and, where fewer than five of the jurors so summoned appear at the time and place appointed for the inquest, the coroner may direct a constable to name and appoint so many persons then present or who can be found as will make up a jury of five. R.S.O. 1960, c. 69, s. 26 (1); 1965, c. 20, s. 11.



(3) Where a person duly summoned to serve as a juror does not attend, the coroner may impose upon him a fine of not more than \$100. R.S.O. 1960, c. 69, s. 26 (2); 1966, c. 27, s. 8. Penalty for non-attendance

(4) Where an inquest is held in a provisional judicial district, the coroner, with the consent in writing of the Crown attorney, may hold the inquest without a jury. R.S.O. 1960, c. 69, s. 26 (3). Inquest without jury in district

**28.** A person shall not serve as a juror at an inquest unless he is named in the voters' list of the municipality and marked therein as qualified to serve as a juror, nor shall a person who has acted as a juror at an inquest act in a similar capacity within one year thereafter. R.S.O. 1960, c. 69, s. 27. Qualification of jurors

**29.** An officer, employee or inmate of a home for the aged, hospital, mental hospital, charitable institution, correctional institution or lock-up shall not serve as a juror at an inquest upon the body of a person who died therein. R.S.O. 1960, c. 69, s. 28, *amended*. Disqualification

**30.** It is not necessary for a jury to view the body upon which an inquest is being held if the coroner directs that the viewing of the body be dispensed with. R.S.O. 1960, c. 69, s. 29; 1960-61, c. 12, s. 10. View of body may be dispensed with

**31.** A verdict or finding may be returned by a majority of the jurors sworn. R.S.O. 1960, c. 69, s. 30. Majority

**32.** A summons to a juror or to a witness may be served by personal service or by sending it by registered mail addressed to the usual place of abode of the person summoned. R.S.O. 1960, c. 69, s. 31. Service of summonses

**33.**—(1) The evidence upon an inquest or any part of it may be recorded by a person approved by the Crown attorney and appointed by the coroner and who before acting shall make oath that he will truly and faithfully record the evidence, and, where evidence is so taken, it is not necessary that it be read over to or signed by the witness, but it is sufficient if the transcript is signed by the coroner and is accompanied by an affidavit of the person recording that it is a true report of the evidence. 1960-61, c. 12, s. 11 (1). Taking evidence

(2) It is not necessary to transcribe the evidence unless the Minister of Justice and Attorney General or Crown attorney orders it to be done or unless any other person requests a copy of the transcript and pays the fees therefor. R.S.O. 1960, c. 69, s. 32 (2); 1960-61, c. 12, s. 11 (2), *amended*. Transcription of evidence



Inter-  
preters

**34.** A coroner may, and if required by the Crown attorney shall, employ a person to act as interpreter at an inquest, and such person may be summoned to attend the inquest and before acting shall make oath that he will truly and faithfully translate the evidence. R.S.O. 1960, c. 69, s. 33.

Constables

**35.** A coroner may appoint such persons as constables as he considers necessary for the purpose of assisting him in an inquest, and, before acting, every such constable shall make oath that he will faithfully perform his duties. R.S.O. 1960, c. 69, s. 34.

Return of  
inquisition

**36.** The coroner shall forthwith, after an inquest, return the verdict or finding and every recognizance taken before him, with the evidence where the Minister of Justice and Attorney General or Crown attorney has ordered it to be transcribed, and the exhibits, to the Crown attorney, and shall transmit a copy of the verdict and recommendations to the supervising coroner. R.S.O. 1960, c. 69, s. 35; 1965, c. 20, s. 12, *amended*.

Fees:  
coroners'

**37.—**(1) Coroners' fees and allowances for holding investigations and inquests shall be those set out in Schedule A, but, where the Minister of Justice and Attorney General is of opinion that the prescribed fees are insufficient having regard to the special circumstances of any investigation or inquest, he may approve a larger fee to any coroner. R.S.O. 1960, c. 69, s. 37 (1), *amended*.

Idem

(2) Where an investigation is made by more than one coroner under section 16, the fee prescribed by Schedule A for the investigation shall be paid to each coroner making the investigation. 1965, c. 20, s. 13.

Idem

(3) Where a coroner is appointed on a full-time basis, the order in council appointing him may provide for payment of a salary in lieu of fees.

Crown  
attorneys'  
R.S.O. 1970,  
c. 6  
constables'

(4) Crown attorneys' fees and expenses for attending inquests shall be those prescribed under *The Administration of Justice Act*.

(5) Constables' fees and mileage allowances for services rendered in connection with an inquest shall be those prescribed under *The Administration of Justice Act*. 1968, c. 18, s. 2.

jurors'

(6) Jurors' fees and mileage allowances for attending inquests shall be those set out in Schedule B.

witnesses'

(7) Witnesses' fees, mileage allowances and amounts for living expenses in connection with inquests shall be those set out in Schedule C. R.S.O. 1960, c. 69, s. 37 (4-5).

steno-  
graphers'

(8) Stenographers' fees for services rendered in connection with an inquest shall be those set out in Schedule E, and when certified by the coroner shall be paid in the same way as witness fees. R.S.O. 1960, c. 69, s. 37 (6); 1966, c. 27, s. 9 (1).

(9) Interpreters' fees for services rendered at an inquest shall be such as are considered reasonable by the Crown attorney and when certified by the coroner shall be paid in the same way as witness fees. interpreters'

(10) The fees and mileage allowances in connection with *post mortem* examinations and analyses shall be those set out in Schedule D. R.S.O. 1960, c. 69, s. 37 (7, 8). post mortem examinations, etc.

(11) The fees for an expert appointed to assist a coroner in an investigation shall be such as are determined by the supervising coroner and, when certified by the Crown attorney, shall be paid in the same way as witness fees, but, where the fees exceed \$100, they are subject to the approval of the Deputy Minister of Justice and Deputy Attorney General. 1966, c. 27, s. 9 (2), *amended*. experts'

**38.** The fees and expenses prescribed by the Schedules shall be paid out of the moneys appropriated therefor by the Legislature. 1968, c. 18, s. 3, *part*. Payment of fees and expenses

**39.** Where a fine is imposed by a coroner under this Act, it is payable forthwith, and, if it is not so paid, the coroner may commit the person so failing to pay to imprisonment for a period of not more than ten days. R.S.O. 1960, c. 69, s. 41, *amended*. Payment of fees and expenses

**40.** In proceedings under this Act, it is not necessary for a person to affix a seal to a document, and no document is invalidated by reason of the lack of a seal, even though the document purports to be sealed. R.S.O. 1960, c. 69, s. 42. Seals not necessary

**41.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the powers and duties of the supervising coroner;
- (b) prescribing the powers and duties of chief coroners;
- (c) prescribing forms and providing for their use;
- (d) prescribing fees for the purposes of section 10. R.S.O. 1960, c. 69, s. 43; 1966, c. 27, s. 10.

## SCHEDULE A

*Coroners*

1. For all services on an investigation.....	\$25.00
2. For all services in connection with an inquest.....	25.00
Where the inquest extends beyond two hours, for each additional two hours or part thereof.....	15.00
3. For every mile necessarily travelled in connection with an investigation or an inquest.....	.10
4. For expenses necessarily incurred in connection with an investigation or inquest, such expense allowance as is approved by the Crown attorney.	

R.S.O. 1960, c. 69, Sched. A; 1960-61, c. 12, s. 13;  
1966, c. 27, s. 11.

## SCHEDULE B

*Jurors*

1. For every day of attendance at the inquest.....	\$ 6.00
2. For each mile necessarily travelled between the juror's place of residence and the place where the inquest is held, a mileage allowance of 10 cents a mile each way, but, where the inquest is held in a city in which the juror resides, the mileage allowance is 75 cents.	
3. Where a juror resides elsewhere than the place where the inquest was held and in the opinion of the coroner or the Crown attorney it is desirable that he remain overnight at such place, a sum equal to the amount reasonably and actually paid by him for living expenses, but not more than \$8 for each night.	

R.S.O. 1960, c. 69, Sched. B; 1960-61, c. 12, s. 14;  
1965, c. 20, s. 14.

SCHEDULE C

Witnesses

1. For every day of attendance at the inquest . . . . .

\$ 6.00
2. For every day of attendance of a legally qualified medical practitioner as a medical practitioner . . . . .

15.00
3. For every day of attendance of an expert witness, including the medical practitioner who performed the autopsy, such fee not exceeding \$30 as the coroner considers proper or such greater fee as the Minister of Justice and Attorney General or the Deputy Minister of Justice and Deputy Attorney General approves.
4. For preparing a plan, furnishing any article or doing any work for use at the inquest, in addition to the fee to which the witness would ordinarily be entitled, such special fee as the coroner considers proper and the Crown attorney approves.
5. Where a witness travels by his own automobile, a mileage allowance of 10 cents a mile each way for each mile necessarily travelled between his place of residence and the place where the inquest is held, but, where the inquest is held in the city in which the witness resides, the mileage allowance is 75 cents.

The distance travelled shall be ascertained by the declaration of the Crown attorney.
6. Where a witness travels by a means other than his own automobile, a sum equal to the amount of the fare actually paid for the transportation from his place of residence to the place where the inquest is held and return.
7. Where a witness is required to attend the inquest on more than one day and returns to his place of residence at night, the travelling allowance mentioned in item 5 or 6, as the case may be, is payable in respect of each day's attendance.
8. Where a witness resides elsewhere than the place where the inquest was held and in the opinion of the Crown attorney or coroner it is desirable that he remain overnight at such place, a sum equal to the amount reasonably and actually paid by him for living expenses, but not more than \$8 for each night.

R.S.O. 1960, c. 69, Sched. C; 1965, c. 20, s. 15;  
1966, c. 27, s. 12, amended.

## SCHEDULE D

*Post Mortem Examinations, etc.*

1. For a *post mortem* examination, including necessary microscopic sections to prove diagnosis and the services of an assistant where necessary . . . . . \$100.00
2. For any other examination or analysis, such fee as is authorized by the coroner, but the fee shall not exceed \$15 without the approval of the supervising coroner.
3. For the use of facilities for autopsy in a hospital, for each autopsy . . . . . 25.00
4. For the use of facilities for autopsy in a place other than a hospital, for each autopsy . . . . . 20.00
5. For transporting a dead body for further investigation upon the authorization of the coroner, \$15 or 30 cents a mile necessarily travelled each way, whichever is the greater.
6. For each mile necessarily travelled in connection with an examination or analysis . . . . . .10

R.S.O. 1960, c. 69, Sched. D; 1965, c. 20, s. 16;  
1966, c. 27, s. 13.

## SCHEDULE E

*Stenographers*

1. For each day or part thereof actively engaged in one inquest, \$20; or \$5 an hour, whichever is the greater.
2. For copies of shorthand evidence, the same fees as are prescribed for court reporters under *The County Judges Act*.

1966, c. 27, s. 14.



## CHAPTER 88

### The Corporation Securities Registration Act

**1.** In this Act,

Interpre-  
tation

- (a) “assignment of book debts” includes every legal or equitable assignment by way of security of book debts and every mortgage or other charge upon book debts;
- (b) “assignor” means a corporation that makes an assignment of book debts;
- (c) “book debts” means all such accounts and debts, whether existing or future, as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof;
- (d) “chattels” means goods and chattels capable of complete transfer by delivery, and includes, when separately assigned or charged, fixtures and growing crops, but does not include chattel interests in real property or fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed, or growing crops when assigned with any interest in the land on which they grow, or a ship or vessel registered under the laws of Canada or any share in such ship or vessel, or shares or interests in the stock, funds or securities of a government, or in the capital of a corporation, or book debts or other choses in action;
- (e) “corporation” means a corporation wherever or how-ever incorporated;
- (f) “creditors” means creditors of the mortgagor or assignor, whether execution creditors or not, who become creditors before the registration of the mortgage, charge or assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the general benefit of creditors, a trustee under the *Bankruptcy Act* (Canada) and a liquidator of a company under the *Winding-up Act* (Canada) or under a provincial Act containing provisions for the winding up of companies, without regard to the time when the creditor so suing becomes a creditor or when the assignee, trustee or liquidator is appointed;

R.S.C. 1952,  
cc. 14, 296

- (g) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (h) "mortgagor" includes a corporation that executes a charge, and "mortgagee" includes a person in whose favour a charge is created;
- (i) "subsequent purchasers or mortgagees" includes a person who obtains, whether by way of purchase, mortgage, charge or assignment, an interest in chattels or book debts that have already been mortgaged, charged or assigned. R.S.O. 1960, c. 70, s. 1; 1968-69, c. 15, s. 1.

Instruments  
to be  
registered

**2.—(1)** Every mortgage and every charge, whether specific or floating, of chattels in Ontario created by a corporation, and every assignment of book debts, whether by way of specific or floating charge, made by a corporation engaged in a trade or business in Ontario and contained,

- (a) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or of any other corporation; or
- (b) in any bonds, debentures or debenture stock of the corporation as well as in the trust deed or other instrument securing the same, or in a trust deed or other instrument securing the bonds, debentures or debenture stock of any other corporation; or
- (c) in any bonds, debentures or debenture stock or any series of bonds or debentures of the corporation not secured by a separate instrument,

is void as against creditors of the mortgagor or assignor, and as against subsequent purchasers or mortgagees from or under the mortgagor or assignor, in good faith, for valuable consideration and without notice, unless it is duly registered, and unless, if contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, it complies with subsection 2.

Affidavit of  
*bona fides*

(2) If the mortgage, charge or assignment is contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, the instrument containing it shall be accompanied by an affidavit of the mortgagee, trustee, or grantee or one of the mortgagees, trustees or grantees, his or their agent, or, if the mortgagee, trustee or grantee is a corporation, of any officer or agent of the corporation, stating that the instrument containing the mortgage, charge or assignment was executed in good faith and for the purpose of securing payment of the bonds, debentures or debenture stock referred to therein and not for the mere purpose of protecting the chattels or book debts therein men-

tioned against the creditors of the mortgagor or assignor or preventing such creditors from obtaining payment of any claim against the mortgagor or assignor.

(3) A mortgage, charge or assignment required to be registered under this Act shall, as against creditors and the subsequent purchasers or mortgagees referred to in subsection 1, take effect only from the time of its registration. R.S.O. 1960, c. 70, s. 2.

When charge  
to take effect

**3.**—(1) Registration of every mortgage, charge or assignment shall, except as provided by subsection 2, be effected by filing with the Minister a duplicate original of the instrument containing the mortgage, charge or assignment, together with the affidavit required by subsection 2 of section 2, and an affidavit made by an officer or agent of the mortgagor or assignor stating the date of the execution of the instrument by the mortgagor or assignor, within thirty days from the date of the execution of the instrument. R.S.O. 1960, c. 70, s. 3 (1); 1968-69, c. 15, s. 2 (1).

Registra-  
tion,  
mode

(2) Registration of every mortgage, charge or assignment, contained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, shall be effected by filing with the Minister, within thirty days after the execution of the bonds, debentures or debenture stock, an affidavit made by an officer or agent of the mortgagor or assignor, setting forth,

Registration  
when charge  
in bond, etc.

- (a) the total amount secured by the bonds, debentures or series thereof, or debenture stock;
- (b) a true copy of the bond or debenture or of one bond or debenture of the series or of the debenture stock certificate; and
- (c) the date of execution. R.S.O. 1960, c. 70, s. 3 (2); 1968-69, c. 15, s. 2 (2).

**4.** Any affidavit made for the purposes of this Act by an officer or agent of a corporation shall state that the deponent is aware of the circumstances connected with the transaction and has a personal knowledge of the facts deposed to. R.S.O. 1960, c. 70, s. 4.

Affidavit of  
corporation  
officer

**5.** When the time for filing an instrument containing a mortgage, charge or assignment, or an affidavit, expires on a Sunday or other day on which the office of the Minister is closed, the filing is, so far as regards the time of filing, valid if made on the next following day on which the office is open. R.S.O. 1960, c. 70, s. 5; 1968-69, c. 15, s. 3.

Time  
expiring on  
holiday

Minutes of  
registration

**6.** The Minister shall cause every instrument containing a mortgage, charge or assignment, and every affidavit filed in his office under this Act to be numbered, to be endorsed with a memorandum of the day, hour and minute of its filing and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the mortgage, charge or assignment, the date of execution of the instrument containing the same or of the bonds, debentures or debenture stock not secured by separate instrument, as shown by the affidavit filed, and the date of filing and the amount secured as shown by the instrument or by the affidavit. R.S.O. 1960, c. 70, s. 6; 1968-69, c. 15, s. 4.

Rectifica-  
tion of  
omissions  
and mis-  
statements

**7.—(1)** Subject to the rights of other persons accrued by reason of any omission or misstatement referred to in this section, a judge of the Supreme Court, on being satisfied that the omission to file an instrument or affidavit within the time prescribed by this Act or any omission or misstatement in any document filed under this Act was accidental or due to inadvertence or impossibility or other sufficient cause, may, in his discretion, extend the time for registration, or order the omission or misstatement to be rectified on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing, as he thinks fit to direct.

Idem

**(2)** The order or a copy thereof shall be annexed to the instrument or affidavit or document or copy thereof on file or tendered for filing, and appropriate entries shall be made in the register. R.S.O. 1960, c. 70, s. 7.

Defects  
and irregu-  
larities

**8.** No defect or irregularity in the execution of an instrument containing a mortgage, charge or assignment, and no defect, irregularity or omission in an affidavit, and no error of a clerical nature or in an immaterial or non-essential part invalidates or destroys the effect of the mortgage, charge or assignment or the registration thereof, unless, in the opinion of the court or judge before whom a question relating thereto is tried, such defect, irregularity, omission or error has actually misled a person whose interests are affected by the mortgage, charge or assignment. R.S.O. 1960, c. 70, s. 8.

Assignments

**9.—(1)** An assignment of a mortgage or of a charge of chattels or of an assignment of book debts within this Act need not, but may, be filed with the Minister.

Discharges  
and partial  
discharges

**(2)** A mortgage or charge or assignment of book debts registered under this Act may be discharged in whole or in part by filing with the Minister a certificate of discharge signed by the mortgagee, trustee, or assignee, his or its executors, administrators, successors or assigns, and, except in the case of a certificate of



discharge executed by a corporation under its corporate seal, the certificate shall be accompanied by the affidavit of an attesting witness of the execution thereof, but, in case a mortgage, charge or assignment of book debts has been assigned, no certificate of discharge by an assignee shall be filed until the assignment has been filed.

(3) In the case of a mortgage, charge or assignment contained in bonds, debentures or any series thereof, or in debenture stock, not secured by a separate instrument, the Minister may, on evidence being given to his satisfaction that the debt for which the mortgage, charge or assignment was given as security has been paid or satisfied, enter a memorandum of discharge in the register, and shall, if required, furnish the corporation with a copy thereof.

Discharge  
when charge  
on face of  
securities

(4) The Minister shall note the fact of such assignment or discharge against each entry in the books of his office respecting the filing of the instrument or affidavit, and shall make a like notation upon that instrument or upon the affidavit filed under subsection 2 of section 3. R.S.O. 1960, c. 70, s. 9; 1968-69, c. 15, s. 5.

Entry of  
assignment  
or discharge

**10.**—(1) Upon payment of the prescribed fees, the Minister shall give a certificate under his hand of the filing of any instrument or affidavit under this Act, and of the day and hour of the filing, and a certificate as to prior registrations, if any, of mortgages, charges or assignments created or made by the mortgagor or assignor.

Certificate  
of filing

(2) Every certificate furnished by the Minister touching any matter dealt with by this Act shall be received for all purposes as *prima facie* proof of the facts set out in the certificate, and every copy of a document filed under this Act, certified by the Minister, shall be received as *prima facie* proof for all purposes as if the original document were produced, and also as *prima facie* proof of the execution of the original document according to the purport of such copy.

Evidence

(3) No proof shall be required of the signature of the Minister in respect of any certificate produced as evidence under this section. R.S.O. 1960, c. 70, s. 10; 1968-69, c. 15, s. 6.

Proof not  
required of  
Minister's  
signature

**11.** Upon payment of the prescribed fees, every person shall have access to and is entitled to inspect the books of the Minister containing records or entries of mortgages, charges or assignments or documents registered or filed under this Act, and no person shall be required as a condition of his right thereto to disclose the name of the person in respect of whom such access or inspection is sought, and the Minister shall, upon request, accompanied by payment of the prescribed fees, produce for inspection any mortgage, charge, assignment or document so registered or filed. R.S.O. 1960, c. 70, s. 11; 1968-69, c. 15, s. 7.

Searches



Fees

**12.** For services under this Act, the Minister is entitled to receive such fees as the Lieutenant Governor in Council may prescribe. R.S.O. 1960, c. 70, s. 12; 1968-69, c. 15, s. 8.

Application  
of Act

**13.** This Act applies only to mortgages or charges of chattels or assignments of book debts executed on or after the 30th day of May, 1932. R.S.O. 1960, c. 70, s. 13.

Charges  
created  
before  
passing  
of Act

**14.** A mortgage or charge of chattels or an assignment of book debts made before the 30th day of May, 1932, which if it had been executed on or after the 30th day of May, 1932, would be within this Act and which was properly registered or filed under any Act respecting the same, shall, notwithstanding anything contained in that Act or any other Act, not be required to be renewed. R.S.O. 1960, c. 70, s. 14.

R.S.O. 1970,  
cc. 33, 45, 344  
not to apply

**15.** *The Assignment of Book Debts Act, The Bills of Sale and Chattel Mortgages Act and The Personal Property Security Act* do not apply to a mortgage, charge or assignment whose registration is provided for in this Act. R.S.O. 1960, c. 70, s. 15.

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## CHAPTER 89

**The Corporations Act****1. In this Act,**Interpre-  
tation

- (a) “books” includes loose-leaf books where reasonable precautions are taken against the misuse of them;
- (b) “Commission” means the Ontario Securities Commission;
- (c) “company” means a corporation with share capital;
- (d) “corporation” means a corporation with or without share capital, but in Part III “corporation” means a corporation without share capital;
- (e) “court” means the Supreme Court or the county or district court of the county or district in which the head office of the corporation is situate;
- (f) “Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (g) “officer” means president, chairman of the board of directors, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, manager or any other person designated an officer by by-law of the corporation;
- (h) “private company” means a company as to which by its special Act, letters patent or supplementary letters patent,
  - (i) the right to transfer its shares is restricted,
  - (ii) the number of its shareholders, exclusive of persons who are in the employment of the company, is limited to fifty, two or more persons holding one or more shares jointly being counted as a single shareholder, and
  - (iii) any invitation to the public to subscribe for its shares or securities is prohibited;
- (i) “public company” means a company that is not a private company;
- (j) “registers” includes loose-leaf registers where reasonable precautions are taken against the misuse of them;
- (k) “securities” means the bonds, debentures, debenture stock or other like liabilities of a corporation whether constituting a charge on its property or not;

- (l) "special resolution" means a resolution passed by the directors and confirmed with or without variation by at least two-thirds of the votes cast at a general meeting of the shareholders or members of the corporation duly called for that purpose, or, in lieu of such confirmation, by the consent in writing of all the shareholders or members entitled to vote at such meeting. R.S.O. 1960, c. 71, s. 1; 1966, c. 28, s. 1; 1968-69, c. 16, s. 1 (1).

Application  
R.S.O. 1970,  
c. 53

**2.** This Act does not apply to a company to which *The Business Corporations Act* applies. 1970, c. 30, s. 1.

## PART I

### CORPORATIONS, INCORPORATION AND NAME

Application

**3.** This Part, except where it is otherwise expressly provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature;

R.S.O. 1970,  
c. 254

but this Part does not apply to a corporation incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1960, c. 71, s. 2.

Incorporation by  
letters  
patent

**4.—(1)** The Lieutenant Governor may in his discretion, by letters patent, issue a charter to any number of persons, not fewer than three, of twenty-one or more years of age, who apply therefor, constituting them and any others who become shareholders or members of the corporation thereby created a corporation for any of the objects to which the authority of the Legislature extends, except those of railway and incline railway and street railway corporations and corporations within the meaning of *The Loan and Trust Corporations Act*. R.S.O. 1960, c. 71, s. 3 (1).

Social  
clubs

(2) Notwithstanding subsection 1, where the objects for which the corporation is to be incorporated are in whole or in part of a social nature, the number of applicants shall be not fewer than ten. 1962-63, c. 24, s. 1.

(3) Notwithstanding subsection 1, a private company may be incorporated under this Act with power to lend and invest money on mortgage of real estate or otherwise, or with power to accept and execute the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accept the duty of and to act generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of *The Loan and Trust Corporations Act*, but the number of its shareholders, exclusive of persons who are in the employment of the company, shall be limited by its letters patent or supplementary letters patent to five, two or more persons holding one or more shares jointly being counted as a single shareholder, and no such company shall issue securities except to its shareholders, or borrow money on the security of its property except from its shareholders, or receive money on deposit. R.S.O. 1960, c. 71, s. 3 (2); 1966, c. 28, s. 2.

Incorporation of private company with limited objects

R.S.O. 1970, c. 254

**5.** The Lieutenant Governor may in his discretion issue supplementary letters patent to any corporation that applies therefor amending or otherwise altering or modifying its letters patent or prior supplementary letters patent. R.S.O. 1960, c. 71, s. 4.

Supplementary letters patent

**6.** The Minister may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant Governor, but not those conferred on the Lieutenant Governor in Council. R.S.O. 1960, c. 71, s. 5.

Powers of Minister

**7.** An applicant under this Act shall establish to the satisfaction of the Minister the sufficiency of the application and all documents filed therewith and shall furnish such evidence of the *bona fides* of the application as the Minister considers proper. R.S.O. 1960, c. 71, s. 6.

Sufficiency of material to be established

**8.** The Minister or any person in his department to whom an application is referred may take evidence under oath with respect thereto. R.S.O. 1960, c. 71, s. 7.

Proof under oath

**9.** On an application for letters patent, supplementary letters patent or an order, the Lieutenant Governor may give the corporation a name different from its proposed or existing name, may vary the objects or other provisions of the application and may impose such conditions as he considers proper. R.S.O. 1960, c. 71, s. 8.

Variation of terms of application

Defects in  
form not  
to invalidate  
letters  
patent

**10.** The provisions of this Act relating to matters preliminary to the issue of letters patent or supplementary letters patent or an order are directory only, and no letters patent or supplementary letters patent or order are void or voidable on account of any irregularity or insufficiency in any matter preliminary to the issue thereof. R.S.O. 1960, c. 71, s. 9.

Notice of  
issue of  
letters  
patent

**11.** The Minister shall cause notice of the issue of letters patent, supplementary letters patent or an order to be given forthwith in *The Ontario Gazette*. R.S.O. 1960, c. 71, s. 10.

Commence-  
ment of  
existence

**12.—**(1) A corporation comes into existence on the date of the letters patent incorporating it. 1961-62, c. 21, s. 1.

Effective  
date of  
letters  
patent, etc.

(2) Letters patent of incorporation, letters patent of continuation, letters patent of amalgamation and supplementary letters patent, issued under this Act or any predecessor thereof, take effect on the date set forth therein. 1968-69, c. 16, s. 2.

Corporate  
name

**13.—**(1) A corporation shall not be given a name,

- (a) that is the same as or similar to the name of a known corporation, association, partnership, individual or business if its use would be likely to deceive, except where the corporation, association, partnership, individual or person signifies its or his consent in writing that its or his name in whole or in part be granted, and, if required by the Minister,
  - (i) in the case of a corporation, undertakes to dissolve or change its name within six months after the incorporation of the new corporation, or
  - (ii) in the case of an association, partnership or individual, undertakes to cease to carry on its or his business or activities, or change its or his name, within six months after the incorporation of the new corporation;
- (b) that suggests or implies a connection with the Crown or any member of the Royal Family or the Government of Canada or the government of any province of Canada or any department, branch, bureau, service, agency or activity of any such government without the consent in writing of the appropriate authority;
- (c) that, when the objects applied for are of a political nature, suggests or implies a connection with a political party or a leader of a political party;
- (d) that includes the word “co-operative” or any abbreviation or derivation thereof unless the corporation is subject to Part V; or



(e) that is objectionable on any public grounds.

(2) If a corporation through inadvertence or otherwise has been or is given a name that is objectionable, the Lieutenant Governor, after he has given notice to the corporation of his intention so to do, may direct the issue of supplementary letters patent changing the name of the corporation to some other name.

Change of  
name if  
objection-  
able

(3) A person who feels aggrieved as a result of the giving of a name under subsection 1 or the changing or refusing to change a name under subsection 2 may, upon at least seven days notice to the Minister and to such other persons as the court directs, apply to the court for a review of the matter, and the court may make an order changing the name of the corporation to such name as it considers proper or may dismiss the application.

Reference  
to court

(4) A copy of an order made under subsection 3, certified under the seal of the court, shall be filed with the Minister by the corporation within ten days after it is made.

Filing

(5) A corporation that fails to comply with subsection 4 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in any such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 12.

Offence

**14.** A change in the name of a corporation does not affect its rights or obligations. R.S.O. 1960, c. 71, s. 13.

Change not  
to affect  
rights, etc.

**15.** A person, partnership or association that trades or carries on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof is used, unless incorporated, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 14.

Unauthor-  
ized use of  
"Limited",  
etc.

**16.** The Minister may on the application in writing of any person and on the payment of a fee of \$2 reserve a corporate name for the use and benefit of the applicant or his nominee for a period of sixty days or such lesser period as he specifies. R.S.O. 1960, c. 71, s. 15.

Reservation  
of name

**17.** A person, partnership or association may notify the Minister of the name under which his or its business or undertaking is carried on and thereupon the Minister shall make a notation thereof in his records. R.S.O. 1960, c. 71, s. 16.

Notice of  
name

## PART II

## COMPANIES

Application

**18.** Subject to section 2 and except where it is otherwise expressly provided, this Part applies,

- (a) to every company incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every company incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every company incorporated by or under a general or special Act of the Legislature,

but this Part does not apply to a company, incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1960, c. 71, s. 17, *amended*.

R.S.O. 1970,  
c. 254Application  
for incor-  
poration

**19.—(1)** The applicants for incorporation of a company shall file with the Lieutenant Governor an application showing:

- 1. The names in full, the place of residence and the calling of each of the applicants.
- 2. The name of the company to be incorporated.
- 3. The objects for which the company is to be incorporated.
- 4. The place in Ontario where the head office of the company is to be situate.
- 5. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share, or, where the shares are to be without par value, the consideration, if any, exceeding which each share or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued.
- 6. Where there are to be preference shares, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them.
- 7. Where the company is to be a private company, a statement to that effect and the restrictions to be placed on the transfer of its shares.

- 8. The names of the applicants who are to be the first directors of the company.
- 9. The class and number of shares to be taken by each applicant and the amount to be paid therefor.
- 10. Any other matters that the applicants desire to have included in the letters patent.

(2) The applicants may ask to have included in the letters patent any provision that could be the subject of a by-law of the company. Idem R.S.O. 1960, c. 71, s. 18.

**20.** Upon incorporation of a company, each applicant becomes a shareholder holding the class and number of shares stated in the application to be taken by him and is liable to the company for the amount to be paid therefor. Original shareholders R.S.O. 1960, c. 71, s. 19.

**21.**—(1) The name of a company shall have the word “Limited” as the last word thereof, but a company may use the abbreviation “Ltd.” for “Limited” and may be referred to in the same manner. Use of word “Limited”

(2) This section does not apply to insurers incorporated under Part VI. Not applicable to insurers R.S.O. 1960, c. 71, s. 20.

**22.**—(1) Where a company or a director, officer or employee thereof uses the name of the company, the word “Limited”, or the abbreviation “Ltd.”, shall appear as the last word thereof. Use of name

(2) Stamping, writing, printing or otherwise marking on goods, wares and merchandise of the company or upon packages containing the same shall not be deemed a use of the name within the meaning of subsection 1. Exception

(3) A private company shall have the words “private company” on its seal. Idem

(4) A company that contravenes any requirement of this section and every director, officer or employee of the company who authorizes, permits or acquiesces in any such contravention is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. Offence R.S.O. 1960, c. 71, s. 21.

**23.** Notwithstanding subsection 1 of section 21 and section 22, a company may use its name in such form and in such language as the letters patent or supplementary letters patent provide. Use of name 1964, c. 10, s. 1.

Incidental  
powers

**24.—(1)** A company possesses, as incidental and ancillary to the objects set out in the letters patent or supplementary letters patent, power,

- (a) to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;
- (b) to acquire or undertake the whole or any part of the business, property and liabilities of any person carrying on any business that the company is authorized to carry on;
- (c) to apply for, register, purchase, lease, acquire, hold, use, control, license, sell, assign or dispose of patents, patent rights, copyrights, trade marks, formulae, licences, inventions, processes, distinctive marks and similar rights;
- (d) to enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction that the company is authorized to carry on or engage in or any business or transaction capable of being conducted so as to benefit the company, and to lend money to, guarantee the contracts of, or otherwise assist any such person or company, and to take or otherwise acquire shares and securities of any such company, and to sell, hold, reissue, with or without guarantee, or otherwise deal with the same;
- (e) to take or otherwise acquire and hold shares in any other company having objects altogether or in part similar to those of the company or carrying on any business capable of being conducted so as to benefit the company;
- (f) to enter into arrangements with any public authority that seem conducive to the company's objects and obtain from any such authority any rights, privileges or concessions;
- (g) to establish and support or aid in the establishment and support of associations, institutions, funds or trusts for the benefit of employees or former employees of the company or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this clause, and subscribe or guarantee money



for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;

- (h) to promote any company for the purpose of acquiring or taking over any of the property and liabilities of the company, or for any other purpose that may benefit the company;
- (i) to purchase, lease or take in exchange, hire or otherwise acquire any personal property and any rights or privileges that the company may think necessary or convenient for the purposes of its business;
- (j) to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches, sidings, bridges, reservoirs, watercourses, wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences that may advance the company's interests, and to contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;
- (k) to raise and assist in raising money for, and to aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person or company with whom the company may have business relations or any of whose shares, securities or other obligations are held by the company and to guarantee the performance or fulfilment of any contracts or obligations of any such person or company, and in particular to guarantee the payment of the principal of and interest on securities, mortgages and liabilities of any such person or company;
- (l) to draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments;
- (m) to sell, lease, exchange or dispose of the undertaking of the company or any part thereof as an entirety or substantially as an entirety for such consideration as the company thinks fit, and in particular for shares or securities of any other company having objects altogether or in part similar to those of the company, if authorized so to do by a special resolution;
- (n) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the company in the ordinary course of its business;



- (o) to adopt such means of making known the products of the company as seems expedient, and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals or by granting prizes and rewards or making donations;
- (p) to cause the company to be registered and recognized in any foreign country or province or territory of Canada, and to designate persons therein according to the laws of such foreign country or province or territory to represent the company and to accept service for and on behalf of the company of any process or suit;
- (q) to allot and issue fully-paid shares of the company in payment or part payment of any property purchased or otherwise acquired by the company or for any past services rendered to the company;
- (r) to distribute among the shareholders of the company in money, kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner considered advisable, any property of the company, but no such distribution shall decrease the capital of the company unless made in accordance with this Act;
- (s) to pay all costs and expenses of or incidental to the incorporation and organization of the company;
- (t) to invest and deal with the moneys of the company not immediately required for its objects in such manner as may be determined;
- (u) to do any of the above things and all things authorized by the letters patent and supplementary letters patent as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
- (v) to do all such other things as are incidental or conducive to the attainment of the above objects and of the objects set out in the letters patent and supplementary letters patent.

Powers may  
be with-  
held

(2) Any of the powers set out in subsection 1 may be withheld or limited by the letters patent or supplementary letters patent. R.S.O. 1960, c. 71, s. 22.

Loans to  
share-  
holders  
and directors

**25.**—(1) Except as provided in subsection 2, a company shall not make loans to any of its shareholders or directors or give, directly or indirectly, by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase made or to be made by any person of any shares of the company.

## (2) A company may,

Exceptions

- (a) make loans to any of its shareholders or directors in the ordinary course of its business where the making of loans is part of the ordinary business of the company; or
- (b) make loans to *bona fide* full-time employees of the company whether or not they are shareholders or directors, with a view to enabling them to purchase or erect dwelling houses for their own occupation, and may take from such employees mortgages or other securities for the repayment of such loans; or
- (c) provide, in accordance with a scheme for the time being in force, money by way of loan for the purchase by trustees of fully-paid shares of the company, to be held by or for the benefit of *bona fide* employees of the company, whether or not they are shareholders or directors; or
- (d) make loans to *bona fide* employees of the company, other than directors, whether or not they are shareholders, with a view to enabling them to purchase fully-paid shares of the company to be held by them by way of beneficial ownership; or
- (e) if it is a private company, make loans to any of its shareholders or directors with a view to enabling them to purchase issued shares of the company.

(3) The power mentioned in clause *b*, *c*, *d* or *e* of subsection 2 may be exercised only under the authority of a by-law passed by the directors and confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for considering the by-law.

By by-law only

(4) Every director and officer of a company making or assenting to a loan in contravention of this section is, until repayment of the loan, jointly and severally liable to the company and to its creditors for the debts of the company then existing or thereafter contracted to the amount of the loan with interest at the rate of 5 per cent per annum. R.S.O. 1960, c. 71, s. 23.

Liability of directors

**26.**—(1) The authorized capital of a company shall be divided into shares with par value or without par value or both and may consist of shares of more than one class.

Authorized capital

(2) Where the shares of a company are with par value, its authorized capital shall be expressed in dollars, pounds, francs or other currency in the letters patent or supplementary letters patent and is an amount equal to the total of the products of the number of shares of each class multiplied by the par value thereof.

Par shares

No par or  
par and  
no par  
shares

(3) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, its authorized capital shall be expressed as a specified number of shares in the letters patent or supplementary letters patent.

Considera-  
tion for  
no par  
shares

(4) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, the letters patent or supplementary letters patent may provide that each share without par value or the shares of each class of shares without par value are not to be issued for a consideration exceeding in amount or value a stated amount in dollars, pounds, francs or other currency, and the letters patent or supplementary letters patent may provide, in addition, that such share or shares may be issued for such greater amount as the board of directors of the company considers expedient on payment to the Treasurer of Ontario of the fees payable on such greater amount and on the issuance by the Minister of a certificate of such payment. R.S.O. 1960, c. 71, s. 24.

Nature of  
shares

**27.** Each share of a class shall be the same in all respects as every other share of that class. R.S.O. 1960, c. 71, s. 25.

More than  
one class  
of shares

**28.—**(1) If a company has more than one class of shares, one class shall be common shares designated as such and the other class or classes shall be preference shares howsoever designated.

Application

(2) Subsection 1 does not apply to shares authorized before the 30th day of April, 1954. R.S.O. 1960, c. 71, s. 26.

Preference  
shares

**29.—**(1) If a company has more than one class of shares, the letters patent or supplementary letters patent shall provide that the preference shares of a class confer upon the holders thereof a preference or right over the holders of shares of another class, either preference or common, and such preference or right, without limiting the nature thereof, may be in respect of dividends, repayment of capital, the right to elect part of the board of directors or the right to convert such shares into shares of another class or other classes of shares or into securities.

Conditions,  
etc.

(2) The letters patent or supplementary letters patent of a company may provide that the preference shares of a class may have attached thereto conditions, restrictions, limitations or prohibitions including, but without limiting the nature thereof, the right of the company to purchase for cancellation or at its option to redeem all or part of the shares of that class or conditions, restrictions, limitations or prohibitions on the right to vote.

Redemption  
by share-  
holders

(3) If the letters patent or supplementary letters patent so provide or if a by-law creating preference shares passed and confirmed before the 30th day of April, 1954, so provides, any

preference shares of a class may be redeemed by the company at the request of a holder or of a number or proportion of such holders.

(4) Preference shares without par value do not have a preference in respect of the repayment of capital and are not subject to redemption or purchase for cancellation.

No par preference shares not to be redeemed

(5) Where preference shares with par value are to be redeemed, they shall be redeemed at the amount paid up thereon, but, if the letters patent or supplementary letters patent so provide or if a by-law creating preference shares passed and confirmed before the 30th day of April, 1954, so provides, a premium, unpaid dividends or other stated amount may be paid.

Redemption of par value preference shares

(6) Notwithstanding subsection 5, if the letters patent or supplementary letters patent so provide, the preference shares of a class may be redeemed out of money set aside in a fund for such purpose at a price as near as may be to the actual value thereof, and the method of determining such actual value shall be set out in the letters patent or supplementary letters patent. R.S.O. 1960, c. 71, s. 27 (1-6).

Redemption at actual value

(7) Where the preference shares of a class are made redeemable by the letters patent or supplementary letters patent and where at any time some but not all of such shares are to be redeemed, the shares to be redeemed shall, except as provided in subsections 8 and 9, be selected by lot in such manner as the board of directors determines or as nearly as may be in proportion to the number of shares registered in the name of each shareholder. R.S.O. 1960, c. 71, s. 27 (7); 1961-62, c. 21, s. 2.

Redemption of part

(8) Where at least 95 per cent of the holders of the preference shares of a class holding at least 95 per cent of the issued shares of such class consent in writing and where, after twenty-one days notice has been given by sending the notice to each of the holders of shares of such class to his last address as shown on the books of the company, none of the holders of shares of such class dissents in writing to the company, the company may redeem all or any of such shares in such manner as the board of directors determines.

Redemption of all or part

(9) Where a holder of preference shares of a private company dies or leaves its employment, it may within one year of such event redeem all or any of the preference shares held by the deceased shareholder or former employee.

Redemption of preference shares of private company

(10) The letters patent or supplementary letters patent of a company may withhold any of the powers set out in subsection 7, 8 or 9.

Power to withhold

(11) Where the letters patent or supplementary letters patent provide that the preference shares may be purchased for cancellation by the company, the company may purchase some or all of

Purchase of preference shares by company



such shares at the lowest price at which, in the opinion of the directors, such shares are obtainable, but not exceeding the amount paid up thereon; but, if the letters patent or supplementary letters patent so provide, a premium, unpaid dividends or other stated amount may be paid.

Insolvency

(12) Preference shares shall not be redeemed or purchased for cancellation by the company if the company is insolvent or if the redemption or purchase would render the company insolvent.

Effect of redemption

(13) Where preference shares are redeemed or purchased for cancellation by the company, they shall be thereby cancelled, and the authorized and the issued capital of the company shall be thereby decreased.

Conversion of preference shares

(14) Where preference shares are converted into the same or another number of shares of another class or classes, whether preference or common, the shares converted thereupon become the same in all respects as the shares of the class or classes respectively into which they are converted and the number of shares of each class affected by the conversion is changed accordingly.

Issued capital unchanged on conversion

(15) Where preference shares are converted into another class or other classes of shares, the issued capital of the company shall not be increased or decreased by the conversion.

Application

(16) Subsections 1, 4, 7, 8, 9 and 11 do not apply to shares authorized before the 30th day of April, 1954. R.S.O. 1960, c. 71, s. 27 (8-16).

Preference shares in series

**30.**—(1) The letters patent or supplementary letters patent of a company may authorize the issue from time to time in one or more series of the preference shares of a class and may authorize the directors to fix from time to time before such issue the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of each series of such class.

Voting rights

(2) The shares of all series of the same class of preference shares shall carry the same voting rights or the same restrictions, conditions, limitations or prohibitions on the right to vote.

Dividends

(3) Where any dividends or amounts payable on a repayment of capital are not paid in full, the shares of all series of the same class of preference shares shall participate rateably in respect of such dividends, including accumulations, if any, in accordance with the sums that would be payable on such shares if all such dividends were declared and paid in full, and on any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full.



(4) No shares of any series of a class of preference shares shall be issued until supplementary letters patent have been issued setting forth the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of such series except in the case of the first series if such designation, preferences, rights, conditions, restrictions, limitations or prohibitions have been set forth in the letters patent or prior supplementary letters patent.

Conditions precedent to issue

(5) The Lieutenant Governor may issue such supplementary letters patent on the application of the company authorized by a resolution of the directors fixing the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of such series and the filing with the Minister of evidence of the due compliance with the conditions, if any, contained in the letters patent or in any prior supplementary letters patent, precedent to the creation and issue of the shares of such series. R.S.O. 1960, c. 71, s. 28.

Issue of supplementary letters patent

**31.**—(1) Subject to subsection 2 of section 29, every holder of a preference share or a common share is entitled to one vote for each preference share or each common share held by him at all meetings of the shareholders of the company, but this subsection does not apply to shares authorized before the 30th day of April, 1954.

Voting rights

(2) The letters patent or supplementary letters patent may provide for a greater number of votes for each share of a class or classes at all times or on the happening of a stated event. R.S.O. 1960, c. 71, s. 29.

Votes

**32.**—(1) Where the shares of a company are with par value, its issued capital shall be expressed in dollars, pounds, francs or other currency and is an amount equal to the total of the products of the number of issued shares of each class multiplied by the par value thereof.

Issued capital, par value shares

(2) Where the shares of a company are without par value or where part of its shares are with par value and part are without par value, its issued capital shall be expressed in dollars, pounds, francs or other currency and is an amount equal to the total of the products of the number of issued shares of each class with par value multiplied by the par value thereof, together with the amount of the consideration for which the shares without par value from time to time outstanding were issued and together with such amounts as from time to time by by-law of the company may be transferred thereto.

No par value shares, etc.

(3) Nothing in subsection 2 affects the capital of a company in respect of shares without par value issued before the 30th day of April, 1954, if the letters patent or the supplementary letters

Idem

patent of the company provide that the capital is to be at least equal to the sum of the aggregate par value of all issued shares having par value plus a sum in dollars, pounds, francs or other currency in respect of every issued share without par value plus such amounts as from time to time by by-law of the company may be transferred thereto.

Idem

(4) Where before the 30th day of April, 1954, a company has set aside part of the consideration received upon the allotment and issue of shares without par value as distributable surplus, the amount of such distributable surplus does not form part of its issued capital. R.S.O. 1960, c. 71, s. 30.

Issue of shares

**33.**—(1) In the absence of a provision to the contrary in the letters patent, supplementary letters patent or by-laws of the company, shares may be allotted and issued at such times and in such manner and to such persons or class of persons as the directors determine.

Consideration, par value shares

(2) Shares with par value shall not be allotted and issued as fully paid except for a consideration payable in cash at least equal to the product of the number of shares allotted and issued multiplied by the par value thereof or for a consideration payable directly or indirectly in property or past services which the directors in good faith determine by express resolution to be in all circumstances of the transaction the fair equivalent of such cash consideration.

Consideration, no par shares

(3) Shares without par value may be allotted and issued for such consideration as is fixed by the directors acting in good faith and in the best interests of the company.

Idem

(4) Shares without par value shall not be allotted and issued as fully paid except for the consideration fixed by the directors as aforesaid payable in cash to the total amount of the consideration so fixed or for a consideration payable directly or indirectly in property or past services which the directors in good faith determine by express resolution to be in all circumstances of the transaction the fair equivalent of such cash consideration.

Holders not liable to creditors etc.

(5) Shares allotted and issued in accordance with this section shall be fully paid and non-assessable upon receipt by the company of the consideration for the allotment and issue thereof, and upon such receipt the holders of such shares are not liable to the company or to its creditors in respect thereof. R.S.O. 1960, c. 71, s. 31.

Commission on sale of shares

**34.**—(1) The directors may pass by-laws for the payment of commissions to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for

shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional for such shares, but no such commission shall exceed 25 per cent of the amount of the subscription.

(2) No by-law passed under subsection 1 is effective until it is confirmed by at least two-thirds of the votes cast at a general meeting of shareholders duly called for considering it.

Commission  
by-laws to  
be con-  
firmed

(3) Except as provided in subsection 1, no company shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares of the company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or is paid out of the nominal purchase money or contract price or otherwise. R.S.O. 1960, c. 71, s. 32.

No  
unauthorized  
commissions

**35.—**(1) A company may apply to the Lieutenant Governor for the issue of supplementary letters patent,

Supple-  
mentary  
letters  
patent

- (a) extending, limiting or otherwise varying its objects;
- (b) changing its name;
- (c) increasing its authorized capital;
- (d) decreasing,
  - (i) its authorized capital by cancelling issued or unissued shares with or without par value or by reducing the par value of issued or unissued shares, or
  - (ii) its issued capital, if it has shares without par value, and, where it has more capital than it requires, authorizing the repayment of capital to the shareholders to the extent that the issued capital is decreased in any way under this clause;
- (e) redividing its authorized capital into shares of lesser or greater par value;
- (f) consolidating or subdividing any of its shares without par value;
- (g) changing any of its shares with par value into shares without par value;
- (h) changing any of its shares without par value into shares with par value;

- (i) reclassifying any shares with or without par value into shares of a different class;
- (j) varying any provision in its letters patent or prior supplementary letters patent;
- (k) providing for any other matter or thing in respect of which provision may be made in letters patent under this Act;
- (l) converting it into a public company;
- (m) making it subject to Part IV;
- (n) making it not subject to Part IV;
- (o) converting it into a private company;
- (p) converting it into a corporation without share capital;
- (q) converting it into a corporation, with or without share capital, subject to Part V;
- (r) making it not subject to Part V.

Authori-  
zation

(2) An application under clauses *a* to *n* of subsection 1 shall be authorized by a special resolution.

Idem

(3) An application under clauses *o* to *r* of subsection 1 shall be authorized by a resolution of the board of directors and confirmed in writing,

- (a) by 100 per cent of the shareholders; or
- (b) by at least 95 per cent of the shareholders holding at least 95 per cent of the issued capital,

but, in the case of confirmation under clause *b*, the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each shareholder to his last address as shown on the books of the company and only if at the expiration of the twenty-one days none of the shareholders has dissented in writing to the company.

Additional  
authori-  
zation for  
variation of  
rights of  
preference  
shareholders

(4) If the application is to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to a class of preference shares or to create preference shares ranking in priority to or on a parity with an existing class of preference shares, then, subject to subsection 5 and in addition to the authorization required by subsection 2, the application shall not be made until the application has been authorized in writing,

- (a) by 100 per cent of the holders of the shares of such class or classes of shares; or
- (b) by at least 95 per cent of the holders of the shares of such class or classes of shares holding at least 95 per cent of the issued shares of such class or classes,



but, in the case of authorization under clause *b*, the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each of the holders of shares of such class or classes to his last address as shown on the books of the company and only if at the expiration of twenty-one days none of the holders of such class or classes has dissented in writing to the company.

(5) If the letters patent or supplementary letters patent so provide, the authorization required by subsection 4 may be given by at least two-thirds of the votes cast at a meeting of the holders of such class or classes of shares duly called for that purpose.

(6) Where letters patent or supplementary letters patent issued before the 30th day of April, 1954, provide for an authorization for an application for supplementary letters patent to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to preference shares or to create preference shares ranking in priority to or on a parity with an existing class of preference shares, such authorization is effective, and subsections 4 and 5 do not apply.

(7) An application under subsection 1 may be made only within six months after the resolution has been confirmed by the shareholders.

(8) Subsection 4 does not apply to an arrangement under section 113.

(9) This section does not apply to a company incorporated by special Act, except that a company incorporated by special Act may apply under this section for the issue of supplementary letters patent changing its name. R.S.O. 1960, c. 71, s. 33.

**36.** On an application for supplementary letters patent decreasing authorized or issued capital, the company shall establish to the satisfaction of the Minister that after the decrease the company will be solvent and, if required by the Minister, shall establish to his satisfaction that there are no creditors who object to the application. R.S.O. 1960, c. 71, s. 34.

**37.** Where issued shares without par value are cancelled, the issued capital is thereby decreased by an amount equal to the total of the products of the average consideration for which the shares of each such class were issued multiplied by the number of shares cancelled of each such class, respectively. R.S.O. 1960, c. 71, s. 35.



Liability on  
decrease of  
issued  
capital

**38.**—(1) On a decrease of the issued capital of a company by supplementary letters patent, each person who was a shareholder on the date of the supplementary letters patent is individually liable to the creditors of the company for the debts due on that date to an amount not exceeding the amount of the repayment to him or reduction of his liability, or both, as the case may be.

Limitation  
of liability

(2) A person is not liable under subsection 1,

(a) unless the company has been sued for the debt within six months after the date of the supplementary letters patent and execution has been returned unsatisfied in whole or in part; and

(b) unless he is sued for the debt within two years from the date of the supplementary letters patent.

Idem

(3) After execution has been so returned, the amount due on the execution, not exceeding the amount of the repayment to the person or the reduction of his liability, is the amount recoverable against such person.

Class actions

(4) Where it is made to appear that there are numerous shareholders who may be liable under this section, the court may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the Master's office all such shareholders as may be found, and the Master shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined.

Shareholder  
holding  
shares in  
fiduciary  
capacity

(5) No person holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee, who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust, is personally liable under this section, but the estate, person or trust is subject to all liabilities imposed by this section. R.S.O. 1960, c. 71, s. 36.

Fractional  
shares

**39.**—(1) A person entitled to a fraction of a share is not entitled to be registered on the books of the company in respect thereof or to receive a share certificate therefor, but he is entitled to receive a bearer fractional certificate in respect of such fraction and, on presentation at the head office of the company, or at a place designated by the company, of bearer fractional certificates for fractions that together represent a whole share, a share certificate for a whole share shall be issued in exchange therefor and the person in whose name such certificate is issued shall be registered on the books of the company as the holder of such share.

(2) Such a bearer fractional certificate is transferable by Transfer delivery.

(3) For the purpose of consolidating fractions of shares into whole shares, a company may purchase fractions of shares and, if it does so, it shall sell forthwith the whole shares resulting from the consolidation. R.S.O. 1960, c. 71, s. 37. Purchase by company

**40.** The shares of a company shall be deemed to be personal estate. R.S.O. 1960, c. 71, s. 38. Shares deemed personal estate

**41.—**(1) The shares of a company are transferable on the books of the company subject to such conditions and restrictions as this Act, the special Act, the letters patent or supplementary letters patent prescribe. Transfer of shares

(2) Subject to subsection 3, no by-law shall be passed that in any way restricts the right of a holder of fully-paid shares to transfer them, but by-laws may be passed regulating the method of their transfer. Transfer by-laws

(3) Except in the case of shares listed on a recognized stock exchange, where the letters patent, supplementary letters patent or by-laws so provide, the directors may refuse to permit the registration of a transfer of fully-paid shares registered in the name of a shareholder who is indebted to the company. R.S.O. 1960, c. 71, s. 39. Where shareholder indebted to company

**42.** Every company shall cause to be kept a register of transfers in which all transfers of shares and the date and other particulars of each transfer shall be set out. R.S.O. 1960, c. 71, s. 40. Register of transfers

**43.** A company may appoint a transfer agent to keep the register of shareholders and the register of transfers and may also appoint one or more branch transfer agents to keep branch registers of shareholders and branch registers of transfers. R.S.O. 1960, c. 71, s. 41. Transfer agents

**44.—**(1) The register of shareholders and the register of transfers shall be kept at the head office of the company or at such other office or place in Ontario as is appointed by resolution of the directors, and the branch register or registers of shareholders and the branch register or registers of transfers may be kept at such office or offices of the company or other place or places, either in or outside Ontario, as are appointed by resolution of the directors. Where registers to be kept

(2) Registration of the transfer of a share of the company in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes. Valid registration

Entry in  
branch  
transfer  
register

(3) In each branch register of transfers shall be recorded only the particulars of the transfers of shares registered in that branch register of transfers.

Entry in  
register of  
transfers

(4) Particulars of every transfer of shares registered in every branch register of transfers shall be recorded in the register of transfers.

Closing of  
register of  
transfers

(5) The directors of a company may by resolution close the register of transfers and the branch register or registers of transfers, if any, for a period of time not exceeding forty-eight hours, exclusive of Saturdays and holidays, immediately preceding any meeting of the shareholders, and notice of every such closing shall be given in a newspaper published in the place where the register of transfers is kept and in a newspaper published in each place in which a branch register of transfers is kept. R.S.O. 1960, c. 71, s. 42.

Share  
certifi-  
cates

**45.**—(1) Every shareholder is entitled to a share certificate in respect of the shares held by him, signed by the proper officers in accordance with the company's by-laws in that regard, but the company is not bound to issue more than one share certificate in respect of a share or shares held jointly by several persons and delivery of a share certificate to one of several joint shareholders is sufficient delivery to all.

Evidence

(2) A share certificate is *prima facie* evidence of the title of the shareholder to the shares represented thereby.

Fee

(3) A company may charge a fee of not more than 50 cents for every share certificate issued, except that, in the case of the allotment and issue of shares, no fee shall be charged. R.S.O. 1960, c. 71, s. 43.

Lost  
certifi-  
cates

**46.** Where a share certificate is defaced, destroyed or lost, a new certificate may be issued in its place on payment of such fee, if any, not exceeding \$1 and on such terms, if any, as to evidence and indemnity as the directors determine. R.S.O. 1960, c. 71, s. 44.

Contents  
of share  
certifi-  
cates

**47.**—(1) Every share certificate,

- (a) shall bear upon its face the name of the company, the words "Incorporated in the Province of Ontario" or words of like effect and a statement of its authorized capital; and
- (b) shall state the number and class of shares represented thereby and whether the shares are with par value or without par value and, if partly paid, the amount paid up thereon or that the shares are fully paid, as the case may be; and

- (c) if it represents preference shares, shall state thereon in legible characters the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the class of preference shares to which it belongs; and
- (d) if it represents shares of a private company, shall bear upon its face the words "Private Company".

(2) Where some but not all of the preference shares of a class Exception are converted, redeemed or purchased for cancellation, it is unnecessary for the company to change the statement of its authorized capital on its share certificates. R.S.O. 1960, c. 71, s. 45.

**48.** A share certificate shall be signed manually by at least one officer of the company or by or on behalf of a transfer agent or branch transfer agent of the company, and the company may by by-law provide that any additional signatures required on share certificates may be printed, engraved, lithographed or otherwise mechanically reproduced thereon, and in such event share certificates so signed are as valid as if they had been signed manually. Signing of share certificates R.S.O. 1960, c. 71, s. 46.

**49.—(1)** A company is not bound to see to the execution of Trusts any trust, whether express, implied or constructive, in respect of any share.

(2) The receipt of the shareholder in whose name the share is registered on the books of the company is a valid and binding discharge to the company for any payment made in respect of such share whether notice of such trust has been given to the company or not. Discharge

(3) The company is not bound to see to the application of the money paid upon such receipt. Application of money paid

(4) The written authorization of an executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as holding shares in any such capacity is sufficient justification for the company to register a transfer of such shares, including a transfer into the name of such executor, administrator, committee of a mentally incompetent person, guardian or trustee absolutely. R.S.O. 1960, c. 71, s. 47. Authority to transfer

**50.—(1)** A public company, if so authorized by its letters patent or supplementary letters patent and subject to the provisions respecting share warrants therein contained, may, with respect to any fully-paid shares, issue under the seal of the company a share warrant stating that the bearer of it is entitled to the share or shares therein specified, and may provide, by coupons or otherwise, for the payment of future dividends on the share or shares specified in the share warrant. Share warrants



Entry of  
share  
warrant  
in company  
books

(2) On the issue of a share warrant, the company shall remove from its books the name of the shareholder then entered thereon as holding such share or shares as if he had ceased to be a shareholder and shall enter in such books the following particulars:

1. The fact of the issue of the share warrant.
2. A statement of the shares specified in the share warrant.
3. The date of the issue of the share warrant.

Transfer

(3) A share warrant entitles the bearer thereof to the shares therein specified and the shares may be transferred by delivery of the warrant.

Bearer of  
share war-  
rant deemed  
shareholder

(4) The bearer of a share warrant shall be deemed to be a shareholder of the company, except that he is not entitled to receive notice of meetings or a copy of any financial statement or auditor's report and is not qualified in respect of shares specified in the share warrant to be a director of the company.

Voting  
rights

(5) Upon presentation of a share warrant at a meeting of shareholders, its bearer is entitled to attend the meeting and vote the shares specified in it.

Certificate

(6) For the purpose of subsection 5, the expression "share warrant" includes a certificate or other document satisfactory to the company to the effect that its bearer is the holder of a share warrant in respect of the shares specified in the certificate or other document.

Exchange  
of warrant  
for regis-  
tration  
as share-  
holder

(7) The bearer of a share warrant is, subject to the provisions respecting share warrants contained in the letters patent or supplementary letters patent, entitled, on surrendering it for cancellation, to have the shares specified in it registered in his name on the books of the company, and the company is responsible for any loss incurred by any person by reason of the company entering on its books the name of the bearer of a share warrant in respect of the shares specified in it without the warrant being surrendered and cancelled.

Surrender  
of share  
warrant

(8) Upon the surrender of a share warrant for cancellation, the date of the surrender shall be entered in the books of the company. R.S.O. 1960, c. 71, s. 48.

Transfers  
valid only  
after  
registra-  
tion

**51.**—(1) No transfer of shares, unless made by sale under an execution or under a decree, order or judgment of a court of competent jurisdiction, is valid for any purpose whatsoever until registration thereof has been duly made in the register of transfers or in a branch register of transfers of the company, save only as exhibiting the rights of the parties thereto towards each other and, if absolute, of rendering any transferee jointly and severally liable with the transferor to the company and to its creditors.



(2) Notwithstanding subsection 1, where fully-paid shares are listed on a recognized stock exchange at the time of the delivery of a certificate for such shares with a duly executed instrument of transfer endorsed thereon or accompanying it, such delivery constitutes a valid transfer of the shares represented by such certificate, but, until registration of such transfer is duly made in the register of transfers or in a branch register of transfers of the company, the company may treat the person in whose name the shares represented by such certificate are registered on the books of the company as being solely entitled to receive notice of and vote at meetings of shareholders and receive any payments in respect of such shares whether by way of dividends or otherwise.

Exception

(3) A power of attorney contained in a duly executed instrument of transfer endorsed on or accompanying a share certificate delivered for value before the death of the transferor is not revoked by the death of the transferor but is valid and effectual subject to the conditions or restrictions, if any, contained therein. R.S.O. 1960, c. 71, s. 49.

Power of attorney not revoked by death

**52.**—(1) The directors may refuse to permit the registration of a transfer of shares on the books of the company for the purpose of notifying the person registered thereon as owner of such shares of the application for such registration, and in that event the company shall forthwith give notice to such person of such application.

Notice to owner

(2) The owner may within seven days after the giving of such notice lodge a caveat against the registration of the transfer and thereupon the registration of the transfer shall not be made for a period of forty-eight hours.

Owner may lodge caveat

(3) If within one week after the giving of such notice or the expiration of such period of forty-eight hours, whichever last expires, no order of a competent court enjoining the registration of the transfer has been served upon the company, the transfer may be registered.

Transfer may be registered if no order served

(4) Where a transfer of shares is registered after the proceedings mentioned in this section, the company is not liable in respect of such shares to a person whose rights are purported to be transferred, but nothing in this subsection prejudices any claim the transferor may have against the transferee. R.S.O. 1960, c. 71, s. 50.

Liability of company

**53.**—(1) No registration of a transfer of shares that are not fully paid shall be made without the consent of the directors and of the transferee and, subject to subsection 4, where such registration is made with the consent of the directors, the transferor is not liable to the company or to its creditors for the amount unpaid on such shares.

Where consent of directors to transfer required

Directors'  
liability

(2) Subject to subsection 3, where registration is made with the consent of the directors of a transfer of shares that are not fully paid to a person whom the directors have reason to believe is not of sufficient means to pay fully for such shares, the directors are jointly and severally liable to the company and to its creditors in the same manner and to the same extent as the transferor would have been liable if the registration had not been made.

Relief from  
liability

(3) If a director, present when such consent to registration is given, forthwith, or, if a director then absent, within seven days after he becomes aware of such consent, delivers to an officer of the company his written protest against such consent and, within seven days after delivery of such protest, sends a copy of such protest by registered mail to the Minister, such director thereby and not otherwise exonerates himself from liability under subsection 2.

Liability  
where call  
remains  
unpaid

(4) Where the transfer of a share upon which a call is unpaid is registered with the consent of the directors and of the transferee, the transferee is liable for the call to the same extent and with the same liability to forfeiture of the share, if the call remains unpaid, as if he had been the holder when the call was made, and the transferor also remains liable for the call until it is paid. R.S.O. 1960, c. 71, s. 51.

Transmis-  
sion of  
deceased  
shareholder's  
shares

R.S.O. 1970,  
c. 449

**54.** Where upon the death of a holder of any shares or securities of a company a transmission thereof takes place to or title to or control thereof vests or is claimed to vest in any person, herein called "the successor", then, subject to *The Succession Duty Act*, the company is justified in permitting or consenting to the registration thereof in the name of the successor on the company's books or in paying the principal amount thereof or any dividend or interest thereon to the successor,

- (a) if the successor claims by virtue of a grant of probate or letters of administration or other instrument issued or purporting to be issued by a court or other judicial authority in any jurisdiction, upon production of the same or an authenticated copy thereof or extract therefrom or a certificate of such grant under the seal of such court or other authority without any proof of the authenticity of such seal or other proof whatever and deposit of a copy thereof; or
- (b) if the successor claims by virtue of the laws of any jurisdiction in which any such transmission or vesting of title or control takes place without a grant of probate or letters of administration or other court or judicial action, upon production and deposit of proof thereof in accordance with the laws of such jurisdiction and reasonable evidence of such laws; or

- (c) if the net value of the estate of the deceased holder is less than \$1,500 or if the market value of the shares or securities is less than \$300, upon proof thereof to the reasonable satisfaction of the company,

together with, in any such event, production and deposit by the successor of a sworn statement showing the nature of the transmission or vesting of title or control, as the case may be. R.S.O. 1960, c. 71, s. 52.

**55.**—(1) The directors may by resolution call in and by notice thereof in writing demand from the shareholders the whole or any part of the amount unpaid on shares held by them at such times and places and in such payments or instalments as this Act, the special Act, the letters patent, the supplementary letters patent, the by-laws or the terms of allotment and issue of such shares require or allow.

Calls on  
shares

(2) The demand shall state that, in the event of the call not being paid in accordance with the demand, the shares in respect of which the call was made will be liable to be forfeited.

Demand to  
state  
liability  
to for-  
feiture

(3) If a shareholder fails to pay a call due by him on or before the day appointed for the payment thereof, he is liable to pay interest on the amount thereof at the rate of 5 per cent per annum from the day appointed for payment to the time of payment.

Liability  
for interest

(4) In the event of the call not being paid in accordance with the demand, the directors may forfeit any shares on which the call is not paid.

Forfeiture  
of shares

(5) Any forfeited shares become the property of the company upon the forfeiture, and, subject to its by-laws, may be sold.

Sale of  
forfeited  
shares

(6) Notwithstanding such forfeiture, the holder of such shares at the time of forfeiture continues liable to the company and to its creditors for the full amount unpaid on such shares at the time of forfeiture, less any sums that are subsequently received by the company in respect thereof.

Continuing  
liability

(7) Where the company receives on the sale of forfeited shares an amount in excess of the amount then unpaid on such shares, the excess amount shall be paid to the person whose shares were forfeited.

Refund of  
excess on  
sale

(8) The directors may, instead of forfeiting any shares, enforce payment of all calls and interest thereon by action in a court of competent jurisdiction. R.S.O. 1960, c. 71, s. 53.

Recovery  
of calls  
by suit

**56.** The directors may receive at any time from a shareholder all or any part of the moneys uncalled and unpaid upon shares held by him. R.S.O. 1960, c. 71, s. 54.

Right to  
receive  
uncalled  
moneys



Share-  
holder's  
liability  
limited

**57.**—(1) A shareholder shall not, as such, be held answerable or responsible for any act, default, obligation or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company beyond the amount unpaid on his shares.

Share-  
holder's  
liability

(2) A shareholder, until the whole amount has been paid up on his shares, is liable to the creditors of the company to an amount equal to that unpaid thereon, but he is not liable to an action therefor by a creditor until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part.

Amount  
recoverable

(3) The amount due on such execution, not exceeding the amount unpaid on his shares, is the amount recoverable from such shareholder and, when so recovered, shall be considered as paid on his shares.

Set-off

(4) A shareholder may plead by way of defence, in whole or in part, to any such action by a creditor any set-off that he could set up against the company except a claim for unpaid dividends or a salary or allowance as a director or officer of the company. R.S.O. 1960, c. 71, s. 55.

Trustees,  
etc., not  
personally  
liable

**58.**—(1) No executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust is personally liable in respect of the shares that he so represents.

Liability  
of estate,  
etc.

(2) The estate, person or trust so represented is liable as if the testator, intestate, mentally incompetent person, ward or *cestui que trust* were registered on the books of the company as the holder of the shares.

Where  
trustee,  
etc., liable

(3) If the testator, intestate, mentally incompetent person, ward or *cestui que trust* so represented is not named on the books of the company, the executor, administrator, committee, guardian or trustee is personally liable in respect of such shares as if he held them in his own name as owner thereof. R.S.O. 1960, c. 71, s. 56.

Interpre-  
tation

**59.**—(1) The word "mortgagee", as used in subsection 2, includes a trustee for holders of securities.

Mortgagee  
not  
personally  
liable

(2) No mortgagee of a share of a company and no person holding such a share as collateral security who is registered on the books of the company as the holder of such share and therein described as representing in either of such capacities a named mortgagor or person giving such collateral security is personally liable in respect of such share that he so represents, but the

mortgagor or other person giving such collateral security is liable as if he were registered on the books of the company as the holder of such share. R.S.O. 1960, c. 71, s. 57.

**60.**—(1) The directors may pass by-laws,

Borrowing  
powers

- (a) for borrowing money on the credit of the company; or
- (b) for issuing, selling or pledging securities of the company; or
- (c) for charging, mortgaging, hypothecating or pledging all or any of the real or personal property of the company, including book debts and unpaid calls, rights, powers, franchises and undertaking, to secure any securities or any money borrowed, or other debt, or any other obligation or liability of the company. R.S.O. 1960, c. 71, s. 58 (1).

(2) The expression “property of the company” in subsection 1 and in every predecessor thereof includes and has included always both present and future property of the company. 1961-62, c. 21, s. 3.

Interpre-  
tation

(3) No by-law passed under subsection 1 is effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of shareholders duly called for considering it. R.S.O. 1960, c. 71, s. 58 (2).

Borrowing  
by-laws to  
be confirmed

**61.** A condition contained in a security or in a deed for securing a security is not invalid by reason only that the security is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. R.S.O. 1960, c. 71, s. 59.

Irredeemable  
securities

**62.**—(1) A duplicate original, or a copy certified under the seal of the company, of any charge, mortgage or other instrument of hypothecation or pledge made by the company to secure its securities shall be filed forthwith in the office of the Minister.

Duplicate  
to be  
filed

(2) Subsection 1 does not apply to a charge or mortgage filed with the Minister under *The Corporation Securities Registration Act* or any other Act. R.S.O. 1960, c. 71, s. 60.

Exception  
R.S.O. 1970,  
c. 88

**63.**—(1) Subject to the special Act, letters patent or supplementary letters patent of the company, the directors may declare and the company may pay dividends on the issued shares of the company.

Power to  
declare  
dividends

(2) A dividend may be paid in money or in specie or in kind not exceeding in value the amount of the dividend.

Manner of  
payment



When  
dividend  
not to be  
declared

(3) The directors shall not declare and the company shall not pay any dividend or bonus when the company is insolvent, or any dividend or bonus the payment of which renders the company insolvent or that diminishes its capital, and, if any dividend or bonus is declared and paid contrary to this subsection, the directors are jointly and severally liable to the company for the amount of the dividend so declared and paid or such part thereof as renders the company insolvent or diminishes its capital.

Relief from  
liability

(4) If a director, present when any such dividend or bonus is declared, forthwith, or, if a director then absent, within seven days after he becomes aware of such declaration, delivers to an officer of the company his written protest against such declaration and, within seven days after delivery of such protest, sends a copy of such protest by registered mail to the Minister, such director thereby and not otherwise exonerates himself from liability under subsection 3.

Companies  
with  
wasting  
assets

(5) Nothing in this section prevents a mining company or a company whose assets are of a wasting character, or a company incorporated for the object of acquiring and administering the assets or a substantial part of the assets of another corporation, either from such corporation or from the assign of such corporation, for the purpose of converting such assets into money and distributing the money among the shareholders of the company, from declaring and paying dividends out of funds derived from the operations of the company.

Extent of  
impairment  
of capital

(6) The powers conferred by subsection 5 may be exercised notwithstanding that the value of the net assets of the company may be thereby reduced to less than the issued capital of the company if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the company exclusive of its issued capital.

Where  
confirmed  
by-law  
required

(7) Subject to subsection 8, the powers conferred by subsection 5 may be exercised only under the authority of a by-law passed by the directors and confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for considering it.

Idem

(8) Where dividends have been paid by a company in any of the cases mentioned in subsection 5 without the authority of a by-law, the payment thereof is nevertheless valid if a by-law adopting and approving the payment is passed by the directors and confirmed by the shareholders in the manner mentioned in subsection 7. R.S.O. 1960, c. 71, s. 61.

Stock  
dividends

**64.** For the amount of any dividend that the directors may declare payable in money, they may declare a stock dividend and issue therefor shares of the company as fully paid or may credit

the amount of such dividend on shares of the company already issued but not fully paid, and the liability of the holders of such shares shall be reduced by the amount of such dividend. R.S.O. 1960, c. 71, s. 62.

**65.** The directors, upon declaring a dividend, may direct that no transfer of shares shall be registered on the books of the company for a stated period, not exceeding two weeks, immediately preceding the payment of the dividend, and payment thereof shall be made to the shareholders of record on the date of closing the books. R.S.O. 1960, c. 71, s. 63.

Closing  
transfer  
registers

**66.**—(1) The letters patent, supplementary letters patent or by-laws of a company may provide that every shareholder entitled to vote at an election of directors has the right to cast thereat a number of votes equal to the number of votes attached to the shares held by him multiplied by the number of directors to be elected, and he may cast all such votes in favour of one candidate or distribute them among the candidates in such manner as he sees fit, and that, where he has voted for more than one candidate without specifying the distribution of his votes among such candidates he shall be deemed to have divided his votes equally among the candidates for whom he voted.

Cumulative  
voting for  
directors

(2) This section does not apply to companies to which Part V applies or to companies to which *The Credit Unions Act* applies. R.S.O. 1960, c. 71, s. 64.

Co-ops  
R.S.O. 1970,  
c. 96

**67.** Where the letters patent, supplementary letters patent or by-laws of a company provide for the election of directors by cumulative voting under section 66, the letters patent, supplementary letters patent or by-laws may provide that the shareholders may, by a resolution passed by at least two-thirds of the votes cast at a general meeting of which notice specifying the intention to pass such resolution has been given, remove any director before the expiration of his term of office, and may, by a majority of the votes cast at that meeting, elect any person in his stead for the remainder of his term, but that no director shall be removed where the votes cast against the resolution for his removal would, if cumulatively voted at an election of the full board of directors, be sufficient to elect one or more directors. R.S.O. 1960, c. 71, s. 65.

Removal of  
directors

**68.**—(1) Where the letters patent, supplementary letters patent or by-laws of a company do not provide for cumulative voting under section 66, the letters patent, supplementary letters patent or by-laws may provide that the shareholders may, by a resolution passed by at least two-thirds of the votes cast at a general meeting of which notice specifying the intention to pass

Idem

such resolution has been given, remove any director before the expiration of his term of office, and may, by a majority of the votes cast at that meeting, elect any person in his stead for the remainder of his term.

Exception

(2) Subsection 1 does not affect the operation of any provision respecting the removal of directors in the letters patent or supplementary letters patent of a company issued before the 30th day of April, 1954. R.S.O. 1960, c. 71, s. 66.

By-laws

**69.**—(1) The directors may pass by-laws not contrary to this Act or to the letters patent or supplementary letters patent to regulate,

- (a) the allotment and issue of shares, the making of calls thereon, the payment thereof, the issue of share certificates, the forfeiture of shares for non-payment, the sale of forfeited shares, the transfer and the registration of transfers of shares;
- (b) the declaration and payment of dividends;
- (c) the qualification and remuneration of the directors;
- (d) the time for and the manner of election of directors;
- (e) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the company and the security, if any, to be given by them to it;
- (f) the time and place and the notice to be given for the holding of meetings of the shareholders and of the board of directors, the quorum at meetings of shareholders, the requirements as to proxies, and the procedure in all things at shareholders' meetings and at meetings of the board of directors;
- (g) the conduct in all other particulars of the affairs of the company.

Confirmation

(2) A by-law passed under subsection 1 and a repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the shareholders duly called for that purpose, is effective only until the next annual meeting of the shareholders unless confirmed thereat and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the shareholders.

Rejection,  
etc.

(3) The shareholders may at the general meeting or the annual meeting mentioned in subsection 2 confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law shall be prejudicially affected by any such rejection, amendment or other dealing. R.S.O. 1960, c. 71, s. 67.



**70.** No by-law for the payment of the president as president or of any director as a director is effective until it has been confirmed at a general meeting of the shareholders duly called for that purpose. R.S.O. 1960, c. 71, s. 68.

Payment of president and directors

**71.**—(1) Where the number of directors on the board of directors of a company is more than six, the directors may pass a by-law authorizing them to elect from among their number an executive committee consisting of not fewer than three and to delegate to the executive committee any powers of the board, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

Executive committee

(2) The by-law is not effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for that purpose.

Confirmation

(3) An executive committee may fix its quorum at not less than a majority of its members. R.S.O. 1960, c. 71, s. 69.

Quorum

**72.**—(1) Every director of a company who is in any way directly or indirectly interested in a proposed contract or a contract with the company shall declare his interest at a meeting of the directors of the company.

Disclosure by directors of interests in contracts

(2) In the case of a proposed contract, the declaration required by this section shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration or, if the director is not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he becomes so interested, and, in a case where the director becomes interested in a contract after it is made, the declaration shall be made at the first meeting of the directors held after he becomes so interested.

Time of declaration

(3) For the purposes of this section, a general notice given to the directors of a company by a director to the effect that he is a shareholder of or otherwise interested in any other company, or is a member of a specified firm and is to be regarded as interested in any contract made with such other company or firm, shall be deemed to be a sufficient declaration of interest in relation to a contract so made, but no such notice is effective unless it is given at a meeting of the directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.

General notice

(4) If a director has made a declaration of his interest in a proposed contract or contract in compliance with this section and has not voted in respect of the contract, he is not accountable to the company or to any of its shareholders or creditors for any

Effect of declaration

profit realized from the contract, and the contract is not voidable by reason only of his holding that office or of the fiduciary relationship established thereby.

Confirmation by shareholders

(5) Notwithstanding anything in this section, a director is not accountable to the company or to any of its shareholders or creditors for any profit realized from such contract and the contract is not by reason only of his interest therein voidable if it is confirmed by a majority of the votes cast at a general meeting of the shareholders duly called for that purpose and if his interest in the contract is declared in the notice calling the meeting.

Offence

(6) If a director is liable in respect of profit realized from any such contract and the contract is by reason only of his interest therein voidable, he is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 70.

Interpretation

**73.**—(1) In this section and in sections 74 to 79,

- (a) “affiliate” means an affiliated company within the meaning of subsection 3 of section 107;
- (b) “associate”, where used to indicate a relationship with any person, means,
  - (i) any company of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding,
  - (ii) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity, or
  - (iii) any relative or spouse of such person or any relative of such spouse who in any such case, has the same home as such person;
- (c) “capital security” means any share of any class of shares of a company or any bond, debenture, note or other obligation of a company, whether secured or unsecured;
- (d) “equity share” means any share of any class of shares of a company carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- (e) “insider” or “insider of a company” means,
  - (i) any director or senior officer of a public company that has fifteen or more shareholders, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder,



- (ii) any person who beneficially owns, directly or indirectly, equity shares of such a company carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding, provided that in computing the percentage of voting rights attached to equity shares owned by an underwriter there shall be excluded any equity shares that have been acquired by him as underwriter in the course of distribution to the public of such shares, but such exclusion ceases to have effect on completion or cessation of the distribution to the public by him, or
- (iii) any person who exercises control or direction over the equity shares of such a company carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding;

(f) “senior officer” means,

- (i) the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a company or any other individual who performs functions for the company similar to those normally performed by an individual occupying any such office, and
- (ii) each of the five highest paid employees of a company, including any individual referred to in sub-clause i;

(g) “underwriter” has the same meaning as in *The Securities Act*. 1966, c. 28, s. 3, *part*; 1968, c. 19, s. 1; 1968-69, c. 16, s. 3. R.S.O. 1970,  
c. 426

(2) For the purposes of this section and sections 74 to 79, Idem

- (a) every director or senior officer of a company that is itself an insider of another company shall be deemed to be an insider of such other company;
- (b) an individual shall be deemed to own beneficially capital securities beneficially owned by a company controlled by him or by an affiliate of such company;
- (c) a company shall be deemed to own beneficially capital securities beneficially owned by its affiliates; and
- (d) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a capital security shall be deemed a change in the beneficial ownership of the capital security to which such transferable option relates. 1966, c. 28, s. 3, *part*.

Report

**74.**—(1) A person who becomes an insider of a company shall, within ten days after the end of the month in which he becomes an insider, file with the Commission a report, as of the day on which he became an insider, of his direct or indirect beneficial ownership of or control or direction over capital securities of the company.

Idem

(2) If a person who is an insider of a company, but has no direct or indirect beneficial ownership of or control or direction over capital securities of the company, acquires direct or indirect beneficial ownership of or control or direction over any such securities, he shall, within ten days after the end of the month in which he acquired such direct or indirect beneficial ownership or such control or direction, file with the Commission a report, as of the date of such acquisition, of his direct or indirect beneficial ownership of or control or direction over capital securities of the company. 1968, c. 19, s. 2 (2), *part*.

Report of subsequent changes

(3) A person who has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction over capital securities of the company changes from that shown or required to be shown in such report or in the last report filed by him under this subsection shall, within ten days following the end of the month in which such change takes place, provided that he was an insider of the company at any time during such month, file with the Commission a report of his direct or indirect beneficial ownership of or his control or direction over capital securities of the company at the end of such month and the change or changes therein that occurred during the month, and giving such details of each transaction as may be required by the regulations made under section 79. 1968, c. 19, s. 2 (2), *part, amended*.

Reports may be inspected

**75.**—(1) All reports filed with the Commission under section 74 or any predecessor thereof shall be open to public inspection at the offices of the Commission during normal business hours of the Commission, and any person may make extracts from such reports. 1966, c. 28, s. 3, *part, amended*.

Publication of information contained in reports

(2) The Commission shall summarize in or as part of a monthly periodical for distribution to the public on payment of a reasonable fee therefor the information contained in the reports so filed. 1966, c. 28, s. 3, *part*.

Offence

**76.**—(1) Every person who is required to file a report under section 74 or any predecessor thereof and who fails so to do is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such failure is also guilty of an offence and on summary conviction is liable to a like fine.

(2) Every person who files a report under section 74 or any Idem predecessor thereof that is false or misleading by reason of the misstatement or omission of a material fact is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in the filing of such false or misleading report is also guilty of an offence and on summary conviction is liable to a like fine. 1966, c. 28, s. 3, *part, amended*.

(3) No person is guilty of an offence under subsection 2 if he did Saving not know and in the exercise of reasonable diligence could not have known that the report was false or misleading by reason of the misstatement or omission of a material fact.

(4) No prosecution shall be brought under subsection 1 or 2 Consent without the consent of the Commission. 1966, c. 28, s. 3, *part.* to prosecute

**77.**—(1) Every insider of a company or associate or affiliate of such insider, who, in connection with a transaction relating to the capital securities of the company, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of such securities, is liable to compensate any person for any direct loss suffered by such person as a result of such transaction, unless such information was known or ought reasonably to have been known to such person at the time of such transaction, and is also accountable to the company for any direct benefit or advantage received or receivable by such insider, associate or affiliate, as the case may be, as a result of such transaction. Liability of insiders

(2) An action to enforce any right created by subsection 1 may be commenced only within two years after the date of completion of the transaction that gave rise to the cause of action. 1966, c. 28, s. 3, *part.* Limitation period

**78.**—(1) Upon application by any person who was at the time of a transaction referred to in subsection 1 of section 77 or is at the time of the application an owner of capital securities of the company, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that, Order to commence action

(a) such person has reasonable grounds for believing that the company has a cause of action under section 77; and

(b) either,

(i) the company has refused or failed to commence an action under section 77 within sixty days after receipt of a written request from such person so to do, or

(ii) the company has failed to prosecute diligently an action commenced by it under section 77,

make an order, upon such terms as to security for costs and otherwise as to the judge seems fit, requiring the Commission to commence or continue an action in the name of and on behalf of the company to enforce the liability created by section 77.

Notice to  
company  
and O.S.C.

(2) The company and the Commission shall be given notice of any application under subsection 1 and shall have the right to appear and be heard thereon.

Order to  
require  
company to  
co-operate

(3) Every order made under subsection 1 shall provide that the company shall co-operate fully with the Commission in the institution and prosecution of such action and shall make available to the Commission all books, records, documents and other material or information known to the company or reasonably ascertainable by the company relevant to such action. 1966, c. 28, s. 3, *part*.

Appeal

(4) An appeal lies to the Court of Appeal from an order made under subsection 1. 1966, c. 28, s. 3, *part*.

Regulations

**79.** The Lieutenant Governor in Council may make regulations,

(a) prescribing the form and content of the reports required to be filed under section 74;

(b) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of sections 73 to 78. 1966, c. 28, s. 3, *part*.

Exception

**80.**—(1) Upon the application of any interested person, the Commission may, if satisfied upon the circumstances of the particular case that there is adequate justification for so doing, make an order upon such terms and conditions as seem to the Commission to be expedient exempting in whole or in part any person from the requirements of section 74.

Hearing of  
Commission  
R.S.O. 1970,  
c. 426

(2) Section 5 of *The Securities Act* applies, so far as possible, to hearings of the Commission under this section. 1968, c. 19, s. 3, *part*.

Appeal from  
Commission

(3) Any person who feels aggrieved by a decision of the Commission under this section may appeal the decision to the Supreme Court, and subsections 2 to 6 of section 29 of *The Securities Act* apply to the appeal. 1968, c. 19, s. 3, *part, amended*.

Director  
indemnified  
in suits  
respecting  
execution  
of his  
office

**81.** Every director of a company, and his heirs, executors and administrators, and estate and effects, respectively, may, with the consent of the company, given at any meeting of the shareholders, from time to time and at all times, be indemnified



and saved harmless out of the funds of the company, from and against,

- (a) all costs, charges and expenses whatsoever that he sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him, in or about the execution of the duties of his office; and
- (b) all other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his own wilful neglect or default. R.S.O. 1960, c. 71, s. 72.

**82.—**(1) The directors of a company are jointly and severally liable to the clerks, labourers, servants, apprentices and other wage earners thereof for all debts due while they are directors for services performed for the company, not exceeding six months wages, and for the vacation pay accrued for not more than twelve months under *The Employment Standards Act* or any predecessor thereof and the regulations thereunder or under any collective agreement made by the company. R.S.O. 1960, c. 71, s. 73 (1), amended.

Liability  
of directors  
for wages

R.S.O. 1970,  
c. 147

(2) A director is not liable under subsection 1,

Limitation  
of liability

- (a) unless the company has been sued for the debt within six months after it has become due and execution has been returned unsatisfied in whole or in part, or the company has within that period gone into liquidation or has been ordered to be wound up or has made an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) has been made against it and the claim on the debt has been fully filed and proved; and
- (b) unless he is sued for the debt while a director or within six months after he ceases to be a director.

R.S.C. 1952,  
c. 14

(3) After execution has been so returned against the company, the amount recoverable against the director is the amount remaining unsatisfied on the execution. *Idem*

(4) If the claim for the debt has been proved in liquidation or winding-up proceedings or under the *Bankruptcy Act* (Canada), a director who pays the debt is entitled to any preference that the creditor paid would have been entitled to or, if a judgment has been recovered for the debt, the director is entitled to an assignment of the judgment.

Rights of  
director  
who pays  
the debt



Director  
holding  
shares in  
fiduciary  
capacity

(5) No director holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee who is registered on the books of the company as a shareholder and therein described as representing in any such capacity a named estate, person or trust is personally liable under this section, but the estate, person or trust is subject to all the liabilities imposed by this section. R.S.O. 1960, c. 71, s. 73 (2-5).

Place of  
meetings

**83.**—(1) Subject to subsections 2 and 3, the meetings of the shareholders, the board of directors and the executive committee shall be held at the place where the head office of the company is situate.

Exception

(2) Where the by-laws of the company so provide, the meetings of the board of directors and of the executive committee may be held at any place in or outside Ontario and the meetings of the shareholders may be held at any place in Ontario.

Exception

(3) Where the letters patent or supplementary letters patent of the company so provide, the meetings of the shareholders may be held at one or more places outside Ontario designated therein.

Where  
section  
not to  
apply

(4) This section does not affect the operation of any provision in the letters patent or supplementary letters patent of a company issued before the 30th day of April, 1954, respecting the holding of the meetings of the shareholders at any place outside Ontario. R.S.O. 1960, c. 71, s. 74.

Interpre-  
tation

**84.** In this section and in sections 85 to 91,

- (a) “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;
- (b) “information circular” means the circular referred to in subsection 1 of section 87;
- (c) “proxy” means a completed and executed form of proxy by means of which a shareholder has appointed a person as his nominee to attend and act for him and on his behalf at a meeting of shareholders;
- (d) “solicit” and “solicitation” include,
  - (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
  - (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
  - (iii) the sending or delivery of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and

- (iv) the sending or delivery of a form of proxy to a shareholder pursuant to section 86,

but do not include,

- (v) the sending or delivery of a form of proxy to a shareholder in response to an unsolicited request made by him or on his behalf, or
- (vi) the performance by any person of ministerial acts or professional services on behalf of a person soliciting a proxy. 1966, c. 28, s. 4, *part*.

**85.**—(1) Every shareholder, including a shareholder that is a Proxies corporation, entitled to vote at a meeting of shareholders may by means of a proxy appoint a person, who need not be a shareholder, as his nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

(2) A proxy shall be executed by the shareholder or his Execution and termination attorney authorized in writing or, if the shareholder is a corporation, under its corporate seal or by an officer or attorney thereof duly authorized, and ceases to be valid one year from its date.

(3) In addition to the requirements, where applicable, of Contents section 89, a proxy shall contain the date thereof and the appointment and name of the nominee and may contain a revocation of a former proxy and restrictions, limitations or instructions as to the manner in which the shares in respect of which the proxy is given are to be voted or that may be necessary to comply with the laws of any jurisdiction in which the shares of the company are listed on a stock exchange or a restriction or limitation as to the number of shares in respect of which the proxy is given.

(4) In addition to revocation in any other manner permitted Revocation by law, a proxy may be revoked by instrument in writing executed by the shareholder or by his attorney authorized in writing or, if the shareholder is a corporation, under its corporate seal or by an officer or attorney thereof duly authorized, and deposited either at the head office of the company at any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used or with the chairman of such meeting on the day of the meeting, or adjournment thereof, and upon either of such deposits the proxy is revoked.

(5) The directors may by resolution fix a time not exceeding Time limit for deposit forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the company or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting or in the information circular relating thereto. 1966, c. 28, s. 4, *part*.

Mandatory  
solicitation  
of proxies

**86.**—(1) Subject to section 88, the management of a company shall, concurrently with or prior to giving notice of a meeting of shareholders of the company, send by prepaid mail to each shareholder who is entitled to vote at such meeting at his last address as shown on the books of the company a form of proxy for use at such meeting that complies with section 89.

Offence

(2) If the management of a company fails to comply with subsection 1, the company is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, and every director or officer of the company who authorized, permitted or acquiesced in such failure is also guilty of an offence and on summary conviction is liable to a like fine. 1966, c. 28, s. 4, *part*.

Information  
circular

**87.**—(1) Subject to subsection 2 and section 88, no person shall solicit proxies unless,

- (a) in the case of a solicitation by or on behalf of the management of a company, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each shareholder of the company whose proxy is solicited at his last address as shown on the books of the company; or
- (b) in the case of any other solicitation, the person making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each shareholder of the company whose proxy is solicited.

Where  
subs. 1  
does not  
apply

(2) Subsection 1 does not apply to,

- (a) any solicitation, otherwise than by or on behalf of the management of a company, where the total number of shareholders whose proxies are solicited is not more than fifteen, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder;
- (b) any solicitation by a person made under section 80 of *The Securities Act*; and
- (c) any solicitation by a person in respect of shares of which he is the beneficial owner.

R.S.O. 1970,  
c. 426

Offence

(3) A person who fails to comply with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such failure is also guilty of an offence and on summary conviction is liable to a like fine.

(4) A person who effects a solicitation that is subject to this section by means of a form of proxy, information circular or other communication that contains an untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, and, where such person is a company, every director or officer of such company who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a like fine. Idem

(5) No person is guilty of an offence under subsection 4 in respect of any untrue statement of a material fact or omission to state a material fact in a form of proxy or information circular, if the untruth of such statement or the fact of such omission was not known to the person who effected the solicitation and in the exercise of reasonable diligence could not have been known to such person. 1966, c. 28, s. 4, *part*. Saving

**88.**—(1) Section 86 and subsection 1 of section 87 do not apply to a private company or to a public company that has fewer than fifteen shareholders, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder. 1966, c. 28, s. 4, *part*. Where s. 86 and s. 87, subs. 1, do not apply

(2) Upon the application of any interested person, the Commission may, if satisfied that in the circumstances of the particular case there is adequate justification for so doing, make an order, on such terms and conditions as seem to the Commission to be just and expedient, exempting any person from the requirements, in whole or in part, of section 86 or of subsection 1 of section 87. Exemption orders

(3) Section 5 of *The Securities Act* applies, so far as possible, to hearings of the Commission under this section. 1968-69, c. 16, s. 5, *part*. Hearing of Commission R.S.O. 1970, c. 426

(4) Any person who feels aggrieved by a decision of the Commission under this section may appeal the decision to the Supreme Court, and subsections 2 to 6 of section 29 of *The Securities Act* apply to the appeal. 1968-69, c. 16, s. 5, *part, amended*. Appeal from Commission

**89.** Where section 86 or 87 is applicable to a solicitation of proxies, Special form of proxy

(a) the form of proxy sent to a shareholder by a person soliciting proxies,

(i) shall indicate in bold-face type whether or not the proxy is solicited by or on behalf of the management of the company, and



- (ii) shall provide a specifically designated blank space for dating the form of proxy;
- (b) the form of proxy shall provide means whereby the person whose proxy is solicited is afforded an opportunity to specify that the shares registered in his name shall be voted by the nominee in favour of or against, in accordance with such person's choice, each matter or group of related matters identified therein or in the information circular as intended to be acted upon, other than the election of directors and the appointment of auditors, provided that a proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by such means if the form of proxy or the information circular states in bold-face type how it is intended to vote the shares represented by the proxy in each such case;
- (c) a proxy may confer discretionary authority with respect to,
  - (i) amendments or variations to matters identified in the notice of meeting, or
  - (ii) other matters which may properly come before the meeting,provided that,
  - (iii) the person by whom or on whose behalf the solicitation is made is not aware a reasonable time prior to the time the solicitation is made that any such amendments, variations or other matters are to be presented for action at the meeting, and
  - (iv) a specific statement is made in the information circular or in the form of proxy that the proxy is conferring such discretionary authority;
- (d) no proxy shall confer authority,
  - (i) to vote for the election of any person as a director of the company unless a *bona fide* proposed nominee for such election is named in the information circular, or
  - (ii) to vote at any meeting other than the meeting specified in the notice of meeting or any adjournment thereof;
- (e) the information circular or form of proxy shall state that the shares represented by the proxy will be voted and that, where the person whose proxy is solicited specifies a choice with respect to any matter to be acted upon pursuant to clause b, the shares shall, subject to section 90, be voted in accordance with the specifications so made;

- (f) the information circular or form of proxy shall indicate in bold-face type that the shareholder has the right to appoint a person to attend and act for him and on his behalf at the meeting other than the person, if any, designated in the form of proxy, and shall contain instructions as to the manner in which the shareholder may exercise such right; and
- (g) if the form of proxy contains a designation of a named person as nominee, means shall be provided whereby the shareholder may designate in a form of proxy some other person as his nominee for the purpose of subsection 1 of section 85. 1966, c. 28, s. 4, *part*.

**90.** If the aggregate number of shares represented at a meeting by proxies required to be voted for or against a particular matter or group of matters carries, to the knowledge of the chairman of the meeting, less than 5 per cent of the voting rights attached to the shares entitled to vote and represented at the meeting, the chairman of the meeting has the right not to conduct a vote by way of ballot on any such matter or group of matters unless a poll is demanded at the meeting. 1966, c. 28, s. 4, *part*.

Where vote  
by ballot not  
required

**91.** The Lieutenant Governor in Council may make such regulations respecting the form and content of an information circular as he considers necessary or appropriate in the public interest. 1966, c. 28, s. 4, *part*.

Regulations  
re contents  
of informa-  
tion circular

**92.** An executor, administrator, committee of a mentally incompetent person, guardian or trustee, and, where a corporation is such executor, administrator, committee, guardian or trustee of a testator, intestate, mentally incompetent person, ward or *cestui que trust*, any person duly appointed a proxy for such corporation, shall represent the shares in his hands at all meetings of the shareholders of the company and may vote accordingly as a shareholder, and every person who mortgages or hypothecates his shares may nevertheless represent the shares at all such meetings and may vote accordingly as a shareholder unless in the instrument creating the mortgage or hypothec he has expressly empowered the holder of such mortgage or hypothec to vote thereon, in which case only such holder or his proxy may vote in respect of such shares. R.S.O. 1960, c. 71, s. 77.

Trustees,  
etc., may  
vote

**93.** If shares are held jointly by two or more persons, any one of them present at a meeting of the shareholders of the company may, in the absence of the other or others, vote thereon, but, if more than one of them are present or represented by proxy, they shall vote together on the shares jointly held. R.S.O. 1960, c. 71, s. 78.

Joint  
holders  
of stock

Share-  
holders'  
meetings

**94.**—(1) Subject to subsection 2 and in the absence of other provisions in that behalf in the by-laws of the company,

- (a) notice of the time and place for holding a meeting of the shareholders shall, unless all the shareholders entitled to notice of the meeting have waived in writing the notice, be given by sending it to each shareholder entitled to notice of the meeting by prepaid mail ten days or more before the date of the meeting to his last address as shown on the books of the company;
- (b) no shareholder in arrear in respect of any call is entitled to vote at a meeting;
- (c) all questions proposed for the consideration of the shareholders at a meeting of shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting has a second or casting vote in case of an equality of votes;
- (d) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place;
- (e) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman;
- (f) unless a poll is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

Notice

(2) Except in the case of a company to which Part V applies, the by-laws of the company shall not provide for fewer than ten days notice of meetings of shareholders and shall not provide that notice may be given otherwise than individually.

Poll

(3) If a poll is demanded, it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman directs. R.S.O. 1960, c. 71, s. 79.

Auditors

**95.**—(1) The shareholders of a company at their first general meeting shall appoint one or more auditors to hold office until the first annual meeting and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments.

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the next annual meeting and, if an appointment is not so made, the auditor in office shall continue in office until a successor is appointed. Idem

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act. Casual vacancy

(4) The shareholders may, by resolution passed by at least two-thirds of the votes cast at a general meeting of which notice of intention to pass the resolution has been given, remove any auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term. Removal

(5) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors. Remuneration

(6) If for any reason no auditor is appointed, the Minister may, on the application of a shareholder, appoint one or more auditors for that year and fix the remuneration to be paid by the company for his or their services. Appointment by Minister

(7) Notice of the appointment of an auditor shall be given in writing to him forthwith after the appointment is made. R.S.O. 1960, c. 71, s. 80. Notice

**96.**—(1) Except as provided in subsection 2, no person shall be appointed as auditor of a company who is a director, officer or employee of that company or an affiliated company or who is a partner, employer or employee of any such director, officer or employee. R.S.O. 1960, c. 71, s. 81 (1); 1962-63, c. 24, s. 2 (1). Qualification of auditor

(2) Upon the unanimous vote of the shareholders of a private company present or represented at the meeting at which the auditor is appointed, a director, officer or employee of that company or an affiliated company, or a partner, employer or employee of such director, officer or employee may be appointed as auditor of that company, if it is not a subsidiary company of a company incorporated by any legislative jurisdiction in Canada which is not a private company within the meaning of this Act. R.S.O. 1960, c. 71, s. 81 (2); 1962-63, c. 24, s. 2 (2). Private companies

(3) A person appointed as auditor under subsection 2 shall indicate in his report to the shareholders on the annual financial statement of the company that he is a director, officer or employee of the company or a partner, employer or employee of such director, officer or employee. R.S.O. 1960, c. 71, s. 81 (3); 1962-63, c. 24, s. 2 (3). Notice



Annual  
audit

**97.**—(1) The auditor shall make such examination as will enable him to report to the shareholders as required under subsection 2. R.S.O. 1960, c. 71, s. 82 (1).

Auditor's  
report

(2) The auditor shall make a report to the shareholders on the financial statement, other than the part thereof that relates to the period referred to in subclause ii of clause *b* of subsection 1 of section 98, to be laid before the company at any annual meeting during his term of office and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the company and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period. R.S.O. 1960, c. 71, s. 82 (2); 1964, c. 10, s. 2; 1966, c. 28, s. 6 (1).

Idem

(3) If the financial statement contains a statement of source and application of funds or a statement of changes in net assets, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of source and application of funds or the statement of changes in net assets presents fairly the information shown therein. 1968, c. 19, s. 4.

Idem

(4) The auditor in his report shall make such statements as he considers necessary,

- (a) if the company's financial statement is not in agreement with its accounting records;
- (b) if the company's financial statement is not in accordance with the requirements of this Act;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination.

Right of  
access, etc.

(5) The auditor of a company has right of access at all times to all records, documents, books, accounts and vouchers of the company and is entitled to require from the directors and officers of the company such information and explanation as in his opinion are necessary to enable him to report as required by subsection 2.

Auditor  
may attend  
share-  
holders'  
meetings

(6) The auditor of a company is entitled to attend any meeting of shareholders of the company and to receive all notices and other communications relating to any such meeting that a shareholder is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. R.S.O. 1960, c. 71, s. 82 (3-5).

**98.**—(1) The directors shall lay before each annual meeting of shareholders,

Information  
to be laid  
before  
annual  
meeting

(a) in the case of a private company, a financial statement for the period that commenced on the date of incorporation and ended not more than six months before such annual meeting or, if the company has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before such annual meeting, as the case may be, made up of,

- (i) a statement of profit and loss for such period,
- (ii) a statement of surplus for such period, and
- (iii) a balance sheet as at the end of such period;

(b) in the case of a public company, a comparative financial statement relating separately to,

- (i) the period that commenced on the date of incorporation and ended not more than six months before such annual meeting or, if the company has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before such annual meeting, as the case may be, and
- (ii) the period covered by the financial year next preceding such latest completed financial year, if any,

made up of,

- (iii) a statement of profit and loss for each period,
- (iv) a statement of surplus for each period,
- (v) in the case of a company that is a mutual fund company or investment company as defined in the regulations under *The Securities Act*, a statement of changes in net assets for each period,
- (vi) in the case of a company other than one referred to in subclause v, a statement of source and application of funds for each period, and
- (vii) a balance sheet as at the end of each period;

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(c) the report of the auditor to the shareholders;

(d) such further information respecting the financial position of the company as the letters patent, supplementary letters patent or by-laws of the company require. R.S.O. 1960, c. 71, s. 83 (1); 1966, c. 28, s. 7 (1); 1968, c. 19, s. 5 (1).

(2) It is not necessary to designate the statements referred to in subsection 1 as the statement of profit and loss, statement of surplus, statement of source and application of funds and balance sheet. 1966, c. 28, s. 7 (2).

Designation  
of  
statements

Auditor's  
report to be  
read

(3) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder. R.S.O. 1960, c. 71, s. 83 (3).

Omission of  
comparative  
statement

(4) Notwithstanding clause *b* of subsection 1, the financial statement referred to in such clause may relate only to the period that ended not more than six months before the annual meeting if the reason for the omission of the statement in respect of the period covered by the previous financial statement is set out in the financial statement to be laid before such meeting or by way of note thereto. 1966, c. 28, s. 7 (3), *part*.

Omission of  
source and  
application  
statement

(5) Notwithstanding subclauses *v* and *vi* of clause *b* of subsection 1, the statement of changes in net assets and the statement of source and application of funds may be omitted if the reason for such omission is set out in the financial statement or by way of note thereto. 1966, c. 28, s. 7 (3), *part*; 1968, c. 19, s. 5 (2).

Statement  
of profit  
and loss

**99.**—(1) The statement of profit and loss to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the company for the period covered by the statement and so as to distinguish severally at least,

- (a) in the case of a public company, sales or gross operating revenue;
- (b) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately;
- (c) income from investments in subsidiaries whose financial statements are not consolidated with those of the company;
- (d) income from investments in affiliated companies other than subsidiaries;
- (e) income from other investments;
- (f) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus;
- (g) provision for depreciation or obsolescence or depletion;
- (h) amounts written off for goodwill or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus;
- (i) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense;
- (j) taxes on income imposed by any taxing authority,

and shall show the net profit or loss for the financial period. R.S.O. 1960, c. 71, s. 84 (1); 1966, c. 28, s. 8 (1, 2).

(2) Notwithstanding subsection 1, items of the natures described in clauses *g* and *h* of subsection 1 may be shown by way of note to the statement of profit and loss. R.S.O. 1960, c. 71, s. 84 (2); 1966, c. 28, s. 8 (3). Notes

(3) The statement of profit and loss of a mutual fund company or an investment company, as defined in the regulations made under *The Securities Act*, shall also distinguish the average net investment income per share and an item of this nature may be shown by way of note to the statement of profit and loss. 1968, c. 19, s. 6. Mutual fund or investment companies  
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(4) A public company may apply to the Commission for an order permitting sales or gross operating revenue referred to in clause *a* of subsection 1 of this section or subclause *i* of clause *c* of subsection 1 of section 111 to be omitted from the statement of profit and loss or the interim financial statement, as the case may be, and the Commission may, on such terms and conditions as it may impose, permit such omission where it is satisfied that in the circumstances the disclosure of such information would be unduly detrimental to the interests of the company. Order for omission of sales or gross operating revenue

(5) Section 5 of *The Securities Act* applies, so far as possible, to hearings of the Commission under this section. 1968-69, c. 16, s. 6, *part*. Hearing of Commission

(6) Any person who feels aggrieved by a decision of the Commission under this section may appeal the decision to the Supreme Court, and subsections 2 to 6 of section 29 of *The Securities Act* apply to the appeal. 1968-69, c. 16, s. 6, *part*, *amended*. Appeal from Commission

**100.**—(1) The statement of surplus shall be drawn up so as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus. Statement of surplus

(2) The statement of contributed surplus shall be drawn up so as to include and distinguish the following items: Contributed surplus

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period including,
  - (a) the amount of surplus arising from the issue of shares or the reorganization of the company's issued capital, including *inter alia*,



- (i) the amount of premiums received on the issue of shares at a premium,
- (ii) the amount of surplus realized on the purchase for cancellation of shares; and
- (b) donations of cash or other property by shareholders.

3. The balance of such surplus at the end of the financial period.

Earned  
surplus

(3) The statement of earned surplus shall be drawn up so as to distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and without restricting the generality of the foregoing at least the following:
  - i. The amount of the net profit or loss for the financial period.
  - ii. The amount of dividends declared on each class of shares.
  - iii. The amount transferred to or from reserves.
3. The balance of such surplus at the end of the financial period. R.S.O. 1960, c. 71, s. 85.

Statement  
of source and  
application  
of funds

**101.** The statement of source and application of funds referred to in subclause vi of clause *b* of subsection 1 of section 98 and clause *b* of subsection 1 of section 111 shall be drawn up so as to present fairly the information shown therein for the period, and shall show separately at least,

- (a) funds derived from,
  - (i) current operations,
  - (ii) sale of non-current assets, segregating investments, fixed assets and intangible assets,
  - (iii) issue of securities or other indebtedness maturing more than one year after issue, and
  - (iv) issue of shares; and
- (b) funds applied to,
  - (i) purchase of non-current assets, segregating investments, fixed assets and intangible assets,
  - (ii) redemption or other retirement of securities or repayment of other indebtedness maturing more than one year after issue,
  - (iii) redemption or other retirement of shares, and
  - (iv) payment of dividends. 1966, c. 28, s. 9; 1968, c. 19, s. 7.

**102.**—(1) The statement of changes in net assets referred to in subclause *v* of clause *b* of subsection 1 of section 98 and clause *a* of subsection 1 of section 111 shall be drawn up so as to present fairly the information shown therein for the period and shall show separately at least,

Statement  
of changes  
in net assets

- (a) net assets at beginning of the period;
- (b) net investment income or loss;
- (c) aggregate proceeds on sale of portfolio investments;
- (d) aggregate cost of portfolio investments owned at beginning of the period;
- (e) aggregate cost of purchases of portfolio investments;
- (f) aggregate cost of portfolio investments owned at end of the period;
- (g) aggregate cost of portfolio investments sold;
- (h) realized profit or loss on investments sold;
- (i) distributions, showing separately the amount out of net investment income and out of realized profits;
- (j) proceeds from shares issued;
- (k) cost of shares redeemed;
- (l) net increase or decrease in unrealized appreciation or depreciation of portfolio investments;
- (m) net assets at end of the period;
- (n) net asset value per share at end of the period;
- (o) net asset value per share at beginning of the period;
- (p) distribution per share out of net investment income;
- (q) distribution per share out of realized profits.

(2) Notwithstanding subsection 1, items of the nature described in clauses *n*, *o*, *p* and *q* of subsection 1 may be shown by way of note to the statement of changes in net assets. 1968, c. 19, s. 8.

Note to  
statement

**103.**—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the company as at the date to which it is made up and so as to distinguish severally at least the following:

Balance  
sheet

1. Cash.
2. Debts owing to the company from its directors, officers or shareholders, except debts of reasonable amount arising in the ordinary course of its business that are not overdue having regard to its ordinary terms of credit.

3. Debts owing to the company, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the company.
4. Debts owing to the company, whether on account of a loan or otherwise, from affiliated companies other than subsidiaries.
5. Other debts owing to the company, segregating those that arose otherwise than in the ordinary course of its business.
6. Inventory, stating the basis of valuation.
7. Shares, bonds, debentures and other investments owned by the company, except those referred to in items 8 and 9, stating their nature and the basis of their valuation and showing separately those that are marketable with a notation of their market value.
8. Shares or securities of subsidiaries whose financial statements are not consolidated with those of the company, stating the basis of valuation.
9. Shares or securities of affiliated companies other than subsidiaries, stating the basis of valuation.
10. Lands, buildings, and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and, if such appraisal took place within five years preceding the date to which the balance sheet is made up, the disposition in the accounts of the company of any amounts added to or deducted from such assets on appraisal and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.
11. There shall be stated under separate headings, in so far as they are not written off, (i) expenditures on account of future business; (ii) any expense incurred in connection with any issue of shares; (iii) any expense incurred in connection with any issue of securities, including any discount thereon; and (iv) any one or more of the following: goodwill, franchises, patents, copyrights, trade marks and other intangible assets and the amount, if any, by which the value of any such assets has been written up after the 30th day of April, 1954.
12. The aggregate amount of any outstanding loans under clauses *c*, *d* and *e* of subsection 2 of section 25.
13. Bank loans and overdrafts.

14. Debts owing by the company on loans from its directors, officers or shareholders.
15. Debts owing by the company to subsidiaries whose financial statements are not consolidated with those of the company, whether on account of a loan or otherwise.
16. Debts owing by the company to affiliated companies other than subsidiaries whether on account of a loan or otherwise.
17. Other debts owing by the company, segregating those that arose otherwise than in the ordinary course of its business.
18. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.
19. Dividends declared but not paid.
20. Deferred income.
21. Securities issued by the company, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.
22. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.
23. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
  - (a) the number of shares of each class issued since the date of the last balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration; and
  - (b) where any shares have not been fully paid,
    - (i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
    - (ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.
24. Contributed surplus.
25. Earned surplus.



26. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period. R.S.O. 1960, c. 71, s. 86 (1); 1966, c. 28, s. 10.

Notes

- (2) Explanatory information or particulars of any item mentioned in subsection 1 may be shown by way of note to the balance sheet. R.S.O. 1960, c. 71, s. 86 (2).

Notes to  
financial  
statement

**104.**—(1) There shall be stated by way of note to the financial statement particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the profit or loss for the period. R.S.O. 1960, c. 71, s. 87 (1).

Change in  
accounting  
practice

- (2) For the purpose of subsection 1, a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period, even though it did not have a material effect upon the profit or loss for the period. 1962-63, c. 24, s. 3 (1).

Idem

- (3) Where applicable, the following matters shall be referred to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the company.
3. Contractual obligations that will require abnormal expenditures in relation to the company's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.
5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
6. Any liability secured otherwise than by operation of law on any asset of the company, stating the liability so secured.
7. Any default of the company in principal, interest, sinking fund or redemption provisions with respect to any issue of its securities or credit agreements.

8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.
9. Where a company has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
10. The aggregate direct remuneration paid or payable by the company and its subsidiaries whose financial statements are consolidated with those of the company to the directors, and the senior officers as defined by clause f of subsection 1 of section 73, of the company and, as a separate amount, the aggregate direct remuneration paid or payable to such directors and senior officers by the subsidiaries of the company whose financial statements are not consolidated with those of the company.
11. In the case of a holding company, the aggregate of any shares in, and the aggregate of any securities of, the holding company held by subsidiary companies whose financial statements are not consolidated with that of the holding company.
12. The amount of any loans by the company, or by a subsidiary company, otherwise than in the ordinary course of business, during the company's financial period, to the directors or officers of the company.
13. Any restriction by the letters patent, supplementary letters patent or by-laws of the company or by contract on the payment of dividends that is significant in the light of the company's financial position.
14. Any event or transaction, other than one in the normal course of business operations, between the date to which the financial statement is made up and the date of the auditor's report thereon that materially affects the financial statement.
15. In the case of a public company, the amount of any obligation for pension benefits arising from service prior to the date of the balance sheet, whether or not such obligation has been provided for in the accounts of the company, the manner in which the company proposes to satisfy such obligation and the basis on which it has charged or proposes to charge the related costs against operations. R.S.O. 1960, c. 71, s. 87 (2); 1962-63, c. 24, s. 3 (2); 1966, c. 28, s. 11.

(4) A note to a financial statement is a part of it. R.S.O. 1960, *Idem* c. 71, s. 87 (3).

Insignificant  
circum-  
stances

**105.** Notwithstanding sections 99 to 104, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance. R.S.O. 1960, c. 71, s. 88.

Consolidated  
financial  
statement

**106.**—(1) A company, in this section referred to as “the holding company”, may include in the financial statement to be submitted at an annual meeting the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statement that it is presented in consolidated form.

Idem

(2) Where the assets and liabilities and income and expense of any one or more subsidiaries of the holding company are not so included in the financial statement of the holding company,

- (a) the financial statement of the holding company shall include a statement setting forth,
  - (i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statement of the holding company,
  - (ii) if there is only one such subsidiary, the amount of the holding company’s proportion of the profit or loss of such subsidiary for the financial period coinciding with or ending in the financial period of the holding company, or, if there is more than one such subsidiary, the amount of the holding company’s proportion of the aggregate profits less losses, or losses less profits, of all such subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding company,
  - (iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding company and the amount included therein as a provision for the loss or losses of such subsidiary or subsidiaries,
  - (iv) if there is only one such subsidiary, the amount of the holding company’s proportion of the undistributed profits of such subsidiary earned since the acquisition of the shares of such subsidiary by the holding company to the extent that such amount has not been taken into the accounts of the holding company, or, if there is more than one such subsidiary, the amount of the holding company’s proportion of the aggregate undistributed profits of all such subsidiaries earned since the acquisition of their shares by the holding company less its proportion of the losses, if any, suffered by any such

subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding company,

- (v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statement for the financial period ending as aforesaid, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the company's own financial statement and is material from the point of view of its shareholders;
- (b) if for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statement of the holding company, the directors who sign the financial statement shall so report in writing and their report shall be included in the financial statement in lieu of the statement;
- (c) true copies of the latest financial statement of such subsidiary or subsidiaries shall be kept on hand by the holding company at its head office and shall be open to inspection by the shareholders of the holding company on request during the normal business hours of the holding company, but the directors of the holding company may by resolution refuse the right of such inspection if such inspection is not in the public interest or would prejudice the holding company or such subsidiary or subsidiaries, which resolution may, on the application of any such shareholder to the court, be set aside by the court;
- (d) if, in the opinion of the auditor of the holding company, adequate provision has not been made in the financial statement of the holding company for the holding company's proportion,
  - (i) where there is only one such subsidiary, of the loss of such subsidiary suffered since acquisition of its shares by the holding company, or
  - (ii) where there is more than one such subsidiary, of the aggregate losses suffered by such subsidiaries since acquisition of their shares by the holding company in excess of its proportion of the undistributed profits, if any, earned by any of such subsidiaries since such acquisition,



the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor. R.S.O. 1960, c. 71, s. 89.

Definitions:  
Subsidiary  
company

**107.**—(1) For the purposes of this Act, a company shall be deemed to be a subsidiary of another company if, but only if,

- (a) it is controlled by,
  - (i) that other, or
  - (ii) that other and one or more companies each of which is controlled by that other, or
  - (iii) two or more companies each of which is controlled by that other; or
- (b) it is a subsidiary of a company that is that other's subsidiary.

Holding  
company

(2) For the purposes of this Act, a company shall be deemed to be another's holding company if, but only if, that other is its subsidiary.

Affiliated  
company

(3) For the purposes of this Act, one company shall be deemed to be affiliated with another company if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same company or each of them is controlled by the same person. R.S.O. 1960, c. 71, s. 90 (1-3).

Control

(4) For the purposes of this Act, a company shall be deemed to be controlled by another company or person or by two or more companies if, but only if,

- (a) shares of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other company or person or by or for the benefit of such other companies; and
- (b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned company. R.S.O. 1960, c. 71, s. 90 (4); 1966, c. 28, s. 12.

Reserves

**108.** In a financial statement, the term "reserve" shall be used to describe only,

- (a) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from earned surplus pursuant to the instrument of incorporation, instrument amending the instrument of incorporation or by-laws of the com-

pany for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and

- (c) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled. R.S.O. 1960, c. 71, s. 91.

**109.** The financial statement shall be approved by the board of directors, such approval to be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign, and the auditor's report shall be attached to the financial statement or there shall be inserted at the foot of the balance sheet a reference to the report. R.S.O. 1960, c. 71, s. 92.

Approval of  
financial  
statement

**110.**—(1) A public company, other than a company to which Part V applies, shall, ten days or more before the date of the annual meeting, send by prepaid mail to each shareholder at his last address as shown on the books of the company a copy of the financial statement and a copy of the auditor's report.

Mailing of  
financial  
statement  
to share-  
holders

(2) A shareholder of a private company is entitled to be furnished by the company on demand with a copy of the documents mentioned in subsection 1.

Financial  
statement,  
private  
companies

(3) A company that fails to comply with subsection 1 or 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the company who authorizes, permits or acquiesces in any such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 93.

Offence

**111.**—(1) A public company, other than a company to which Part V applies, shall send to each shareholder a copy of a comparative interim financial statement for the six-month period that commenced on the date of incorporation or, if the company has completed a financial year, for the six-month period that commenced immediately after the end of the last completed financial year and for the comparable six-month period, if any, in the twelve months immediately preceding the commencement of the six-month period in respect of which such interim financial statement is issued, made up of,

Comparative  
interim  
financial  
statement

- (a) in the case of a company that is a mutual fund company or investment company as defined in the regulations under *The Securities Act*, a statement of changes in net assets for each period that complies with section 102;

R.S.O. 1970,  
c. 426

- (b) in the case of a company other than one referred to in clause *a*, a statement of source and application of funds for each period that complies with section 101; and
- (c) sufficient relevant financial information in summary form to present fairly the results of the operations of the company for each period, including,
  - (i) a statement of sales or gross operating revenue,
  - (ii) extraordinary items of income or expense,
  - (iii) net income before taxes on income imposed by any taxing authority,
  - (iv) taxes on income imposed by any taxing authority, and
  - (v) net profit or loss. 1966, c. 28, s. 13, *part*; 1968, c. 19, s. 9 (1).

Idem

(2) The interim financial statement required by subsection 1 may omit either or both of,

- (a) the information relating to the comparable period; and
- (b) the statement of changes in net assets or the statement of source and application of funds,

if the reason for the omission or omissions, as the case may be, is set out in the interim financial statement or by way of note thereto. 1966, c. 28, s. 13, *part*; 1968, c. 19, s. 9 (2).

Idem

(3) There shall be stated by way of note to the interim financial statement required by subsection 1 particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of such statement with the statement for the preceding period or with the interim financial statement for a part of the preceding period, and the effect, if material, of any such change upon the profit or loss for the period covered by the interim financial statement.

Idem

(4) For the purpose of subsection 3, a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period or part thereof, even though it did not have a material effect upon the profit or loss for the period covered by the interim financial statement.

Idem

(5) The interim financial statement required by subsection 1 shall be sent by prepaid mail to each shareholder, within sixty days of the date to which it is made up, at his last address as shown on the books of the company.

(6) A company that fails to comply with any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, and every director or officer of the company who authorized, permitted or acquiesced in any such failure is guilty of an offence and on summary conviction is liable to a like fine. 1966, c. 28, s. 13, *part*. Offence

**112.**—(1) Except in the cases mentioned in this section, a company shall not be a shareholder of a company that is its holding company, and any allotment or transfer of shares of a company to its subsidiary company is void. Subsidiaries not to hold shares of holding companies

(2) This section does not apply to a subsidiary holding shares as executor, administrator, committee of a mentally incompetent person, guardian or trustee unless the holding company or a subsidiary thereof is beneficially interested under the trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. Application

(3) This section does not prevent a subsidiary that on the 30th day of April, 1954, held shares of its holding company from continuing to hold such shares, but, subject to subsection 2, the subsidiary has no right to vote at meetings of shareholders of the holding company or at meetings of any class of shareholders thereof. Exception

(4) Subject to subsection 2, subsections 1 and 3 apply in relation to a nominee for a company that is a subsidiary as if the references in subsections 1 and 3 to such a company included references to a nominee for it. R.S.O. 1960, c. 71, s. 94. Nominees

**113.**—(1) In this section, “arrangement” includes a reorganization of the authorized capital of a company and includes, without limiting the generality of the foregoing, the consolidation of shares of different classes, the reclassification of shares of a class into shares of another class and the variation of the terms, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares of any class, and includes a reconstruction under which a company transfers or sells or proposes to transfer or to sell to another company the whole or a substantial part of its undertaking for a consideration consisting in whole or in part of shares or securities of the other company and in which it proposes to distribute a part of such consideration among its shareholders of any class or to cease carrying on its undertaking or the part of its undertaking so transferred or sold or so proposed to be transferred or sold. Interpretation

(2) Where an arrangement is proposed between a company and its shareholders or a class or classes of them affecting the rights of such shareholders or class or classes under the company’s letters patent or supplementary letters patent or by-laws, the Arrangements



court may, on application of the company or of a shareholder, order a meeting of the shareholders of the company or of the class or classes affected, as the case may be, to be held on twenty-one days notice, or such shorter time as the court directs, served in such manner as the court directs.

Contents  
of notice  
calling  
meeting

(3) Where a meeting of the shareholders or of any class or classes of shareholders is called under subsection 2, the notice calling the meeting shall contain a statement explaining the effect of the arrangement and in particular stating any interest of the directors of the company, whether as directors or as shareholders of the company or otherwise, and the effect thereon of the arrangement, in so far as it is different from the effect on the like interest of other persons.

Sanction by  
court

(4) If the shareholders of the company or of the class or classes affected, as the case may be, present in person or by proxy at the meeting, agree by at least three-fourths of the shares of each class represented to the arrangement either as proposed or as varied at the meeting, the arrangement may be sanctioned by the court and, if so sanctioned, the arrangement and any decrease or increase in the authorized capital and any provisions for the allotment or disposition thereof by sale or otherwise as therein set forth may be confirmed by supplementary letters patent and thereupon is binding on the company and on the shareholders of the company or on the class or classes of shareholders affected.

Notice to  
dissenters

(5) If dissenting votes are cast at the meeting and, notwithstanding such dissenting votes, the arrangement is agreed to by the shareholders or the class or classes represented in accordance with subsection 4 and unless the court in its discretion otherwise orders, the company shall notify each dissenting shareholder in such manner as the court directs of the time and place when application will be made to it for the sanction of the arrangement. R.S.O. 1960, c. 71, s. 95.

Amalga-  
mation

**114.**—(1) Any two or more companies, including a holding and subsidiary company, having the same or similar objects may amalgamate and continue as one company.

Agreement

(2) The companies proposing to amalgamate may enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect and stating the name of the amalgamated company, the names, callings and places of residence of the first directors thereof and how and when the subsequent directors are to be elected with such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the amalgamated company, the authorized capital of the amalgamated company and the manner of converting the authorized capital of each of the companies into that of the amalgamated company.

(3) The agreement shall be submitted to the shareholders of each of the amalgamating companies at general meetings thereof called for the purpose of considering the agreement, and, if two-thirds of the votes cast at each such meeting are in favour of the adoption of the agreement, that fact shall be certified upon the agreement by the secretary of each of the amalgamating companies under the corporate seal thereof.

Adoption  
by share-  
holders

(4) If the agreement is adopted in accordance with subsection 3, the amalgamating companies may apply jointly to the Lieutenant Governor for letters patent confirming the agreement and amalgamating the companies so applying, and on and from the date of the letters patent such companies are amalgamated and are continued as one company by the name in the letters patent provided, and the amalgamated company possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating companies. R.S.O. 1960, c. 71, s. 96.

Joint  
application  
for letters  
patent

**115.**—(1) Where a company has ceased to carry on business except for the purpose of winding up its affairs and has no debts or obligations that have not been provided for or protected, the directors may pass by-laws for distributing in money, kind, specie or otherwise the property of the company or any part of it rateably among the shareholders according to their rights and interests in the company.

Distribution  
of assets  
where  
winding up  
protracted

(2) The by-law is not effective until it has been confirmed by two-thirds of the votes cast at a meeting of the shareholders duly called for considering the by-law nor until it has been confirmed by the Lieutenant Governor in Council. R.S.O. 1960, c. 71, s. 97.

Confirma-  
tion

**116.**—(1) If a private company contravenes any of the provisions of its special Act, letters patent or supplementary letters patent respecting the restriction on the right to transfer its shares, the limitation on the number of its shareholders or the prohibition on invitations to the public to subscribe for its shares or securities, it ceases to be entitled to the privileges and exemptions conferred on private companies under this Act and under *The Corporations Information Act*, and thereupon this Act and that Act apply to the company as if it were not a private company.

Private  
companies  
contraven-  
ing privi-  
leges, etc.

R.S.O. 1970,  
c. 90

(2) The court, on being satisfied that any such contravention was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as the court considers proper, order that the company be relieved from the consequences mentioned in subsection 1.

Relief

Offence

(3) In addition to the consequences mentioned in subsection 1, every private company that contravenes any of the provisions of its special Act, letters patent or supplementary letters patent respecting the restriction on the right to transfer its shares, the limitation on the number of its shareholders or the prohibition on invitations to the public to subscribe for its shares or securities, and every director or officer of the company who authorizes, permits or acquiesces in any such contravention, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 98.

Private company, rights of dissenting shareholders

**117.**—(1) If, in the case of a private company, at a meeting of shareholders,

- (a) a resolution passed by the directors authorizing the sale or disposition of the undertaking of the company or any part thereof as an entirety or substantially as an entirety is confirmed with or without variation by the shareholders; or
- (b) a resolution passed by the directors authorizing an application for the issue of supplementary letters patent providing for the conversion of the company into a public company is confirmed with or without variation by the shareholders; or
- (c) an agreement for the amalgamation of the company with one or more other companies, whether public or private, is confirmed by the shareholders,

any shareholder who has voted against the confirmation of such resolution or agreement, as the case may be, may within two days after the date of the meeting give notice in writing to the company requiring it to purchase his shares.

Company bound to purchase shares

(2) Within ninety days from the date of the completion of the sale or disposition or the issue of the supplementary letters patent or the letters patent, as the case may be, the company shall purchase the shares of every shareholder who has given notice under subsection 1.

Saving

(3) The company shall not purchase any shares under subsection 2 if it is insolvent or if such purchase would render the company insolvent.

Price of shares

(4) The price and terms of the purchase of such shares shall be as may be agreed upon by the company and the dissenting shareholder, but, if they fail to agree, the price and terms shall be as determined by the court on the application of the dissenting shareholder.

Sale of shares

(5) Any shares purchased under subsection 2 shall not be cancelled by reason only of such purchase, and may be sold by the company at such price and on such terms as the directors determine.

(6) If the sale or disposition is not completed or the supplementary letters patent or letters patent are not issued, the rights of the dissenting shareholder under this section cease and the company shall not purchase the shares of such shareholder under this section. R.S.O. 1960, c. 71, s. 99.

Where sale  
not com-  
pleted

### PART III

#### CORPORATIONS WITHOUT SHARE CAPITAL

**118.** This Part, except where it is otherwise expressly provided, applies, Application

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature,

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway. R.S.O. 1960, c. 71, s. 100.

**119.** A corporation may be incorporated to which Part V or Part VI applies or that has objects that are of a patriotic, religious, philanthropic, charitable, educational, agricultural, scientific, artistic, social, professional, fraternal, sporting or athletic nature or that are of any other useful nature. R.S.O. 1960, c. 71, s. 101.

Nature of  
corpora-  
tions

**120.**—(1) The applicants for the incorporation of a corporation shall file with the Lieutenant Governor an application showing: Application  
for incor-  
poration

1. The names in full, the place of residence and the calling of each of the applicants.
2. The name of the corporation to be incorporated.
3. The objects for which the corporation is to be incorporated.
4. The place in Ontario where the head office of the corporation is to be situate.
5. The names of the applicants who are to be the first directors of the corporation.



6. Any other matters that the applicants desire to have embodied in the letters patent.

Idem

(2) The applicants may ask to have embodied in the letters patent any provision that may be made the subject of a by-law of the corporation. R.S.O. 1960, c. 71, s. 102.

Classes of membership

**121.** The letters patent, supplementary letters patent or by-laws of a corporation may provide for more than one class of membership and in that case shall set forth the designation of and the terms and conditions attaching to each class. R.S.O. 1960, c. 71, s. 103.

Applicants become members

**122.** Upon incorporation of a corporation, each applicant becomes a member thereof. R.S.O. 1960, c. 71, s. 104.

Members not liable

**123.** A member shall not, as such, be held answerable or responsible for any act, default, obligation or liability of the corporation or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the corporation. R.S.O. 1960, c. 71, s. 105.

Number of members

**124.** Unless the letters patent, supplementary letters patent or by-laws of a corporation otherwise provide, there is no limit on the number of members of the corporation. R.S.O. 1960, c. 71, s. 106.

Admission to membership

**125.**—(1) Subject to subsection 2, persons may be admitted to membership in a corporation by resolution of the board of directors, but the letters patent, supplementary letters patent or by-laws may provide that such resolution is not effective until it has been confirmed by the members in general meeting.

Idem

(2) The letters patent, supplementary letters patent or by-laws of a corporation may provide for the admission of members *ex officio*. R.S.O. 1960, c. 71, s. 107.

Voting powers of members

**126.** Each member of each class of members of a corporation has one vote, unless the letters patent, supplementary letters patent or by-laws of the corporation provide that each such member has more than one vote or has no vote. R.S.O. 1960, c. 71, s. 108.

Not to be carried on for gain

**127.**—(1) A corporation, except a corporation to which Part V or VI applies, shall be carried on without the purpose of gain for its members and any profits or other accretions to the corporation shall be used in promoting its objects and the letters patent shall so provide, and, where a company is converted into a corporation, the supplementary letters patent shall so provide.

(2) Nothing in subsection 1 prohibits a director from receiving reasonable remuneration and expenses for his services to the corporation as a director or prohibits a director or member from receiving reasonable remuneration and expenses for his services to the corporation in any other capacity, unless the letters patent, supplementary letters patent or by-laws otherwise provide. R.S.O. 1960, c. 71, s. 109. Exception

**128.** Subject to section 316, the letters patent, supplementary letters patent or by-laws of a corporation may provide for persons becoming directors *ex officio* in lieu of election. R.S.O. 1960, c. 71, s. 110. Directors  
*ex officio*

**129.**—(1) Unless the letters patent or supplementary letters patent otherwise provide, the interest of a member in a corporation is not transferable and lapses and ceases to exist upon his death or when he ceases to be a member by resignation or otherwise in accordance with the by-laws of the corporation. Memberships not transferable, termination

(2) Where the letters patent or supplementary letters patent provide that the interest of a member in the corporation is transferable, the by-laws shall not restrict the transfer of such interest. Where transferable

(3) This section does not apply to corporations to which Part V applies. R.S.O. 1960, c. 71, s. 111. Co-ops

**130.**—(1) The directors of a corporation may pass by-laws not contrary to this Act or to the letters patent or supplementary letters patent to regulate, By-laws

- (a) the admission of persons and unincorporated associations as members and as *ex officio* members and the qualification of and the conditions of membership;
- (b) the fees and dues of members;
- (c) the issue of membership cards and certificates;
- (d) the suspension and termination of memberships by the corporation and by the member;
- (e) the transfer of memberships;
- (f) the qualification of and the remuneration of the directors and the *ex officio* directors, if any;
- (g) the time for and the manner of election of directors;
- (h) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to it;

- (i) the time and place and the notice to be given for the holding of meetings of the members and of the board of directors, the quorum at meetings of members, the requirement as to proxies, and the procedure in all things at members' meetings and at meetings of the board of directors;
- (j) the conduct in all other particulars of the affairs of the corporation.

Confirmation (2) A by-law passed under subsection 1 and a repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the members duly called for that purpose, is effective only until the next annual meeting of the members unless confirmed thereat, and, in default of confirmation thereat, ceases to have effect at and from that time, and in that case no new by-law of the same or like substance has any effect until confirmed at a general meeting of the members.

Rejection (3) The members may at the general meeting or the annual meeting mentioned in subsection 2 confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law is prejudicially affected by any such rejection, amendment or other dealing. R.S.O. 1960, c. 71, s. 112.

By-laws  
respecting  
delegates

**131.**—(1) The directors of a corporation may pass by-laws providing for,

- (a) the division of its members into groups, either territorially or on the basis of common interest;
- (b) the election of some or all of its directors,
  - (i) by such groups on the basis of the number of members in each group, or
  - (ii) for the groups in a defined geographical area, by the delegates of such groups meeting together;
- (c) the election of delegates and alternative delegates to represent each group on the basis of the number of members in each group;
- (d) the number and method of electing delegates;
- (e) the holding of meetings of delegates;
- (f) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members;
- (g) the holding of meetings of members or delegates territorially or on the basis of common interest.

(2) No by-law passed under subsection 1 is effective until it has been confirmed by at least two-thirds of the votes cast at a general meeting of the members duly called for considering the by-law.

Confirmation

(3) A delegate has only one vote and shall not vote by proxy.

Voting

(4) No person shall be elected a delegate who is not a member of the corporation.

Qualification  
of  
delegates

(5) No such by-law shall prohibit members from attending meetings of delegates and participating in the discussions at such meetings. R.S.O. 1960, c. 71, s. 113.

Saving

**132.**—(1) A corporation may apply to the Lieutenant Governor for the issue of supplementary letters patent,

Supple-  
mentary  
letters  
patent

- (a) extending, limiting or otherwise varying its objects;
- (b) changing its name;
- (c) varying any provision in its letters patent or prior supplementary letters patent;
- (d) providing for any matter or thing in respect of which provision may be made in letters patent under this Act;
- (e) converting it into a company;
- (f) converting it into a corporation, with or without share capital, subject to Part V;
- (g) making it not subject to Part V.

(2) An application under clauses *a* to *d* of subsection 1 shall be authorized by a special resolution.

Authoriza-  
tion

(3) An application under clauses *e* to *g* of subsection 1 shall be authorized by resolution of the board of directors and confirmed in writing,

Idem

- (a) by 100 per cent of the members; or
- (b) by at least 95 per cent of the members,

but, in the case of confirmation under clause *b*, the application shall not be made until twenty-one days notice of the application has been given by sending the notice to each member to his last address as shown on the books of the corporation and only if at the expiration of the twenty-one days none of the members has dissented in writing to the corporation.

(4) If the application is under clause *e*, *f* or *g* of subsection 1 and the corporation is to become a company, the application shall set forth the authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, the par value of each share or, where the shares are to be without par value, the consideration, if any, exceeding which each share or the aggregate consideration, if any, exceeding which all the shares of

Contents of  
application  
for conver-  
sion into  
company



each class may not be issued, and, where there are to be preference shares, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them, and the terms and conditions on which the members will become shareholders.

Time for application

(5) An application under subsection 1 may be made only within six months after the resolution has been confirmed by the members.

Special Act corporations excepted

(6) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act may apply under this section for the issue of supplementary letters patent changing its name. R.S.O. 1960, c. 71, s. 114.

Disposition of property on dissolution

**133.**—(1) A corporation may pass by-laws providing that, upon its dissolution and after the payment of all debts and liabilities, its remaining property or part thereof shall be distributed or disposed of to charitable organizations or to organizations whose objects are beneficial to the community.

Confirmation

(2) Such a by-law is not effective until it has been confirmed by two-thirds of the votes cast at a general meeting of the members duly called for that purpose.

Filing and publication of notice

(3) Notice of a by-law passed under this section shall be filed with the Minister and published in *The Ontario Gazette* by the corporation within fourteen days after it has been confirmed.

Offence

(4) Every corporation that fails to comply with subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine.

Where no by-law

(5) In the absence of such by-law and upon the dissolution of the corporation, the whole of its remaining property shall be distributed equally among the members or, if the letters patent, supplementary letters patent or by-laws so provide, among the members of a class or classes of members. R.S.O. 1960, c. 71, s. 115.

Application of Part II provisions to Part III corporations

**134.**—(1) Section 23, clauses *a* to *p*, *s*, *u* and *v* of subsection 1 and subsection 2 of section 24, sections 60 to 62, 68, 70 to 72, 81 to 83, 85, 94 and 95, subsection 1 of section 96, section 97, clauses *a*, *c* and *d* of subsection 1 and subsection 3 of section 98 and section 114 apply *mutatis mutandis* to corporations to which this Part applies, and in so applying them the words “company” and “private company” mean “corporation” and the word “shareholder” means “member”. 1966, c. 28, s. 14 (1).

Charitable corporation

(2) Notwithstanding subsection 1, in the case of a corporation

to which this Part applies the objects of which are exclusively for charitable purposes, it is sufficient notice of any meeting of the members of the corporation if notice is given by publication at least once a week for two consecutive weeks next preceding the meeting in a newspaper or newspapers circulated in the municipality or municipalities in which the majority of the members of the corporation reside as shown by their addresses on the books of the corporation. 1964, c. 10, s. 3 (2).

(3) Subsection 1 of section 24, section 71, clauses *a*, *c* and *d* of subsection 1 and subsections 2 and 3 of section 98, subsection 1 of section 99, except clause *a* thereof, subsection 2 of section 99 and sections 100 to 105, 108 and 109 apply *mutatis mutandis* to corporations to which Part V applies, and in so applying them the words “company” and “private company” mean “corporation” and the word “shareholder” means “member”. Co-ops

(4) Clauses *a*, *c* and *d* of subsection 1 and subsections 2 and 3 of section 98, subsection 1 of section 99, except clause *a* thereof, subsection 2 of section 99, sections 100, 103, 108 and 109 and subsections 1 and 3 of section 110 apply *mutatis mutandis* to corporations to which Part VI applies, and in so applying them the words “company” and “private company” mean “corporation” and the word “shareholder” means “member”. 1966, c. 28, s. 14 (2). Insurers

PART IV

MINING COMPANIES

**135.** In this Part, “company” means a company to which this Part applies. R.S.O. 1960, c. 71, s. 117. Interpretation

**136.** This Part applies, Application

- (a) to every mining company incorporated before the 1st day of July, 1907;
- (b) to every mining company that was made subject to a predecessor of this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent; and
- (c) to every mining company made subject to this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent. R.S.O. 1960, c. 71, s. 118.

**137.**—(1) The shares of a company shall be with par value. Par value shares only

(2) Subsection 1 does not apply to shares authorized before the 30th day of April, 1954. R.S.O. 1960, c. 71, s. 119. Exception

Issue of  
shares at  
discount

**138.**—(1) Unless the letters patent, supplementary letters patent or by-laws otherwise provide, a company may issue its shares at a discount.

At par

(2) Notwithstanding subsection 1, preference shares shall not be issued at a discount.

Rate of  
discount

(3) Where shares are to be issued at a discount, the rate of discount shall be specified in the resolution of the directors allotting such shares. R.S.O. 1960, c. 71, s. 120.

Share-  
holders'  
liability

**139.** No shareholder of a company who holds shares that were validly issued at a discount before the 30th day of April, 1954, or that are validly issued at a discount on or after the 30th day of April, 1954, is personally liable for non-payment of any calls made upon his shares beyond the amount agreed to be paid therefor. R.S.O. 1960, c. 71, s. 121.

Share  
certificates

**140.** A company shall have upon every share certificate issued by it distinctly written or printed in red ink, where such certificates are issued with respect to shares subject to call, the words "SUBJECT TO CALL" or, where issued with respect to shares not subject to call, the words "NOT SUBJECT TO CALL". R.S.O. 1960, c. 71, s. 122.

## PART V

### CO-OPERATIVE CORPORATIONS

Interpre-  
tation

**141.** In this Part, except in subsections 3 and 5 of section 143, "corporation" or "company" means a corporation or company, as the case may be, to which this Part applies. R.S.O. 1960, c. 71, s. 123.

Application

**142.**—(1) This Part applies,

- (a) to every corporation that was made subject to a predecessor of this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent; and
- (b) to every corporation made subject to this Part by its letters patent or supplementary letters patent where the subsection has not been removed by supplementary letters patent.

Act to  
apply

(2) Except where inconsistent with the provisions of this Part, the other provisions of this Act apply to a corporation to which this Part applies. R.S.O. 1960, c. 71, s. 124.

**143.**—(1) The corporate name of a corporation shall include the word “co-operative” as part thereof. Corporate name

(2) Where a corporation or any director, officer, employee, shareholder or member uses the name of the corporation, the word “co-operative” may be abbreviated to “co-op”. Abbreviation

(3) No person not being a corporation to which this Part applies shall use in Ontario a name that includes the word “co-operative” or any abbreviation or derivation thereof whether or not the word, abbreviation or derivation is used in or in conjunction with the name. Prohibition

(4) A person who contravenes subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. Offence

(5) Subsection 3 does not apply to a corporation incorporated by or under the authority of the Parliament of Canada, to a corporation licensed under Part IX, to a corporation incorporated under the laws of Ontario before the 12th day of April, 1917, or to a corporation to which *The Credit Unions Act* applies. Exceptions R.S.O. 1970, c. 96

**144.**—(1) The authorized capital of a company incorporated on or after the 1st day of June, 1949, shall consist of one or more classes of shares to be designated as co-operative or co-op preference shares or as co-operative or co-op common shares, as the case may be, and each class shall have a par value of \$5 or any multiple of \$5 not exceeding \$100. Share capital

(2) A share certificate issued on or after the 30th day of April, 1954, shall, Share certificates

- (a) bear upon its face the name of the company, the words “incorporated as a co-operative company and subject to Part V of *The Corporations Act* (Ontario)” and a statement of the authorized capital, but, where some but not all of the shares of a class are purchased for redemption or some but not all of the preference shares of a class are converted, redeemed or purchased for cancellation, it is not necessary to change such statement of the authorized capital; R.S.O. 1970, c. 89
- (b) state the information required by clauses *b* and *c* of subsection 1 of section 47;
- (c) state that the shares represented by the certificate are not transferable without the authorization of the directors;
- (d) set forth the provisions of section 153;



- (e) state that the dividend, if any, to which the holder of a share may become entitled shall not exceed 8 per cent per annum of the amount paid up thereon; and
- (f) state that the company may by by-law limit the amount to be distributed for each share on the dissolution of the company to the amount paid up on such share together with declared and unpaid dividends. R.S.O. 1960, c. 71, s. 126.

Member  
loans

**145.**—(1) The capital of corporations without share capital may be in the form of loans from members, called “member loans”, and such loans may be in such amounts, payable on demand or at such times and without interest or with interest at such rate, as the by-laws provide. R.S.O. 1960, c. 71, s. 127 (1); 1968, c. 19, s. 10 (1).

Borrowing  
from mem-  
bers or share-  
holders

(2) A corporation may borrow money from its shareholders or members in such amounts payable on demand or at such times and either without interest or with interest at such rate, as the by-laws provide. R.S.O. 1960, c. 71, s. 127 (2); 1968, c. 19, s. 10 (2).

Termination  
of member-  
ship

**146.** Where a member of a corporation without share capital dies or does not transact any business with the corporation for a period of two years, the directors may terminate the membership, and upon such termination the corporation shall pay any money owing to the member. R.S.O. 1960, c. 71, s. 128.

Transfer of  
shares

**147.**—(1) No share of a company shall be transferred unless authorized by the board of directors.

Member-  
ships

(2) No membership in a corporation without share capital shall be transferred unless authorized by the board of directors. R.S.O. 1960, c. 71, s. 129.

Voting

**148.**—(1) No individual member or shareholder of a corporation shall vote by proxy.

Idem

(2) An individual member or shareholder of a corporation has only one vote.

Voting by  
corporate  
members or  
shareholders

(3) A corporate member or shareholder may appoint under its corporate seal one of its directors or officers to attend and vote on its behalf at meetings of members or shareholders and such director or officer has only one vote. R.S.O. 1960, c. 71, s. 130.

Qualifi-  
cation of  
directors

**149.** No person shall hold office as a director of a corporation unless he is a member or shareholder thereof or a director or officer of a corporate member or shareholder thereof, and, where a director or a corporation of which he is an officer or director ceases to be a member or shareholder, he thereupon ceases to be a director. R.S.O. 1960, c. 71, s. 131.

**150.** A corporation may by by-law provide that, before any distribution of surplus arising from the business of the corporation in each fiscal year is made, the corporation may, Reserve fund and dividends

- (a) set aside reserve funds;
- (b) provide for the payment of dividends on the share capital at a rate not to exceed 8 per cent per annum of the amount paid up thereon. R.S.O. 1960, c. 71, s. 132.

**151.—**(1) Subject to section 150, the surplus arising from the business of the corporation in each fiscal year shall be allocated, credited or paid to the members or shareholders in proportion to the business done by each member or shareholder with or through the corporation, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the member or shareholder or by the corporation from or on behalf of or to the member or shareholder, or to the corporation, whether as principal or as agent of the member or shareholder or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof. Distribution of net surplus

(2) The corporation may by by-law provide that part of the surplus may be allocated, credited or paid to non-members or non-shareholders at the same or at lesser rates than to members or shareholders. Idem

(3) The amount that is allocated, credited or paid to members, shareholders, non-members or non-shareholders in each fiscal year shall be known as the patronage return. Patronage return

(4) The corporation may by by-law provide that, where the value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from or on behalf of or to any member, shareholder, non-member or non-shareholder in any year does not exceed \$50, or such lesser amount as is specified in the by-law, no patronage return shall be allocated, credited or paid to such member, shareholder, non-member or non-shareholder. R.S.O. 1960, c. 71, s. 133. Limitation of patronage return

**152.—**(1) A company may by by-law provide that in each fiscal year the whole, or such part as the directors may determine, of the patronage return of each shareholder shall be applied to the purchase for the shareholder of a stated number of unissued shares of the company or a stated number of issued shares of the company, if obtainable. Investment of patronage return

(2) Where a company has enacted a by-law under subsection 1 and the whole or part of the patronage return of a shareholder is required to be invested in issued shares, the company shall mail a written notice to such shareholder stating the number of shares to be purchased by him. Notice

Purchase of  
shares on  
behalf of  
shareholder  
required to  
purchase

(3) Unless within thirty days from the date of mailing of the notice referred to in subsection 2 the shareholder required to purchase issued shares has presented for transfer to himself the number of shares that he is required to purchase, the company may on behalf of such shareholder,

- (a) purchase the required number of shares from shareholders who are willing to sell shares;
- (b) pay out of the patronage return of such shareholder the purchase price;
- (c) transfer such shares to the shareholder; and
- (d) issue and forward to such shareholder a certificate representing such shares. R.S.O. 1960, c. 71, s. 134 (1-3).

Compulsory  
borrowing

(4) A corporation may enact by-laws requiring its shareholders or members to lend to it the whole, or such part as the directors may determine, of the patronage returns to which they may become entitled in each fiscal year, upon such terms and at such rate of interest, as the by-laws provide. R.S.O. 1960, c. 71, s. 134 (4); 1968, c. 19, s. 11.

Idem

(5) No shareholder shall be required under this section to purchase issued or unissued shares at a price in excess of the par value thereof or issued shares when no such shares are available for purchase.

Idem

(6) When the corporation is insolvent, no member or shareholder shall be required under this section to lend his patronage return and no shareholder shall be required to purchase shares of the corporation.

Idem

(7) This section does not prevent a member or shareholder from receiving so much of his patronage return as has not been appropriated to loans to the corporation or to the purchase of shares of the corporation in accordance with the by-laws. R.S.O. 1960, c. 71, s. 134 (5-7).

Purchase of  
shares by  
company

**153.**—(1) Subject to subsections 2 and 3, a company,

- (a) with the consent of a shareholder, may purchase for redemption all or part of the shares held by such shareholder upon payment of such an amount, not exceeding the par value of the shares, as is agreed upon; and
- (b) when a corporate shareholder is about to be dissolved or a shareholder has failed for a period of two years to transact any business with the company, may purchase for redemption the shares of such shareholder or require the transfer of such shares to another person at the book value or par value, whichever is the lesser.

## (2) No company,

Prohibition  
re purchase  
for re-  
demption

- (a) shall use for the purchase of shares for redemption in a fiscal year an amount in excess of 50 per cent of the accumulated reserve funds;
- (b) shall purchase for redemption in a fiscal year more than 10 per cent of the shares outstanding at the beginning of the year;
- (c) shall purchase shares for redemption where the company is insolvent or so as to render the company insolvent or so as to reduce the number of shareholders to fewer than ten.

(3) Where a share is purchased for redemption by a company, it shall be thereby cancelled and the authorized and issued capital shall be thereby decreased.

Reissue  
prohibited

(4) Where shares are subject to purchase for redemption and the company gives to the shareholder written notice of purchase in which the shareholder is requested to surrender the share certificates, if any, for cancellation and the shareholder fails to comply within the time specified, not being less than thirty days after the giving of such notice, the company may pay the purchase price into a chartered bank to the credit of the shareholder and cancel the shares. R.S.O. 1960, c. 71, s. 135.

Where cer-  
tificates of  
redeemed  
shares not  
surrendered

**154.**—(1) On any distribution of the property of a corporation without share capital, member loans and patronage returns that are lent to the corporation rank after the ordinary debts.

Distribu-  
tion of  
property

(2) A corporation may enact by-laws providing that, upon the dissolution of the corporation and after the payment of all debts and liabilities, including any declared and unpaid dividends and the amount paid up on outstanding shares, if any, the remaining property of the corporation or part thereof may be distributed or disposed of,

Distribu-  
tion of  
property  
upon dis-  
solution

- (a) equally among the members or shareholders irrespective of the number of shares held by a shareholder;
- (b) among the members or shareholders at the time of dissolution on the basis of patronage returns accrued to such members or shareholders during the five fiscal years immediately preceding the dissolution or after the date of incorporation; or
- (c) to charitable organizations or to organizations whose objects are beneficial to the community. R.S.O. 1960, c. 71, s. 136.



By-laws

- 155.**—(1) A corporation may pass by-laws providing for,
- (a) the division of its members or shareholders into groups, either territorially or on the basis of common interest;
  - (b) the election of some or all of its directors,
    - (i) by such groups on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both, or
    - (ii) for the groups in a defined geographical area, by the delegates of such groups meeting together;
  - (c) the election of delegates and alternative delegates to represent each group on the basis of the number of members or shareholders in each group or the volume of business done by each group with the corporation, or both;
  - (d) where all of the members or shareholders are corporations, the election of delegates and alternative delegates to represent such corporations on the basis of the number of members or shareholders in each corporation or the volume of business done with each corporation, or both;
  - (e) the number and method of electing delegates;
  - (f) the holding of meetings of delegates;
  - (g) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members or shareholders;
  - (h) the holding of meetings of members, shareholders or delegates territorially or on the basis of common interest;
  - (i) the payment of expenses of delegates attending meetings.

Voting

- (2) A delegate has only one vote and shall not vote by proxy.

Qualifica-  
tion of  
delegates

- (3) No person shall be elected a delegate who is not a member or shareholder of the corporation or a director, officer, member or shareholder of a corporate member or shareholder of the corporation.

Saving

- (4) No such by-law shall prohibit members or shareholders from attending meetings of delegates and participating in the discussions at such meetings. R.S.O. 1960, c. 71, s. 137.

By-laws to  
be con-  
firmed

- 156.**—(1) A by-law of a corporation passed under this Part is not effective until it has been confirmed by a vote of two-thirds of the members or shareholders present or represented at a meeting duly called for considering it.

(2) A by-law of the corporation binds the corporation and its members or shareholders to the same extent as if the by-law had been signed and sealed by each member or shareholder and contained covenants on behalf of each member or shareholder, his heirs, executors, administrators or assigns to conform thereto. R.S.O. 1960, c. 71, s. 138.

By-laws a contract

**157.**—(1) A corporation shall,

Duties:

- (a) file in the office of the Minister, within thirty days after confirmation by its members or shareholders, copies of all its by-laws certified under its corporate seal; file by-laws
- (b) deliver a copy of its by-laws to a member or shareholder when requested in writing so to do; deliver copies of by-laws
- (c) transmit within ten days after each annual meeting to the Minister a copy of its financial statement and a copy of its auditor's report; transmit statements to Minister
- (d) send to every person entitled to notice of its annual meeting with the notice of the annual meeting a copy of its financial statement and a copy of its auditor's report; and deliver statements
- (e) upon the request in writing of a member or shareholder, send to such member or shareholder a copy of its financial statement and a copy of its auditor's report. Idem

(2) Clause c of subsection 1 does not apply to a corporation registered under *The Prepaid Hospital and Medical Services Act*. Exception R.S.O. 1970, c. 360

(3) A corporation that fails to comply with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200, and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 139.

Offence

**158.**—(1) A corporation has power to carry on, encourage and assist educational and advisory work relating to co-operatives and the co-operative ideal. Educational and advisory work

(2) A corporation may enact by-laws authorizing the deduction from the patronage return allocated, credited or paid to each of its members or shareholders of an amount not exceeding \$1 a year and authorizing the payment of the amount deducted to a union or federation of corporations for educational purposes. R.S.O. 1960, c. 71, s. 140.

Support of educational work

**159.** The Lieutenant Governor in Council may declare that a corporation is no longer subject to this Part and change such corporation's name, if it appears to the Lieutenant Governor in Provision for relief

Council that 50 per cent or more in value of the business of the corporation during its last fiscal year was transacted with persons or corporations that were neither members nor shareholders of the corporation. R.S.O. 1960, c. 71, s. 141.

## PART VI

### INSURANCE CORPORATIONS

Interpre-  
tation  
R.S.O. 1970,  
c. 224

**160.** In this Part, unless the context otherwise requires, the words and expressions defined in section 1 of *The Insurance Act* have the same meaning as in that Act. R.S.O. 1960, c. 71, s. 142.

Application  
of Part

**161.**—(1) This Part applies to all applications for incorporation of insurers intending to undertake contracts of insurance in Ontario, and to such insurers when incorporated, and to all insurers incorporated before the 30th day of April, 1954, under the laws of Ontario.

Application  
of Act

(2) Except where inconsistent with this Part and except as provided in subsection 3, the other provisions of this Act apply to all such insurers. R.S.O. 1960, c. 71, s. 143 (1, 2).

Exception

(3) Sections 98 to 108 and 111 do not apply to insurers undertaking and transacting life insurance. 1966, c. 28, s. 15.

Incorpora-  
tion of  
joint stock  
insurance  
companies

**162.**—(1) A joint stock insurance company may be incorporated for the purpose of undertaking and transacting any class of insurance for which a joint stock insurance company may be licensed under *The Insurance Act*.

Notice

(2) Applicants for incorporation shall, immediately before the application is made, publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply, and shall also, if so required by the Minister, publish elsewhere notice of such intention.

Notice to  
Superin-  
tendent

(3) Applicants for incorporation shall also give at least one month's notice to the Superintendent of their intention to apply for incorporation. R.S.O. 1960, c. 71, s. 144.

Interpre-  
tation

**163.**—(1) In this section, "money received on account of shares" includes money received as premium on shares. R.S.O. 1960, c. 71, s. 145 (1).

Authorized  
capital

(2) The authorized capital of a company shall be not less than \$500,000.

(3) A company whose authorized capital immediately before the 13th day of June, 1968 was less than \$500,000 shall not decrease its authorized capital, and subsection 2 does not apply to the corporation until its authorized capital is increased to \$500,000 or more. 1968, c. 19, s. 12, *amended*. Exception

(4) The authorized capital shall be divided into shares of \$100 each, but, where not less than \$200,000 of the authorized capital has been paid in in cash, the shares or any class of shares may be redivided into shares having a par value of \$1 or a multiple thereof, or an additional class or classes of shares having a par value of \$1 or a multiple thereof may be created. R.S.O. 1960, c. 71, s. 145 (4); 1962-63, c. 24, s. 5. Par value of shares

(5) All money received on account of shares shall be paid into a branch or agency in Ontario of a chartered bank of Canada or into a registered trust company in trust for the proposed company, and no money paid on account of shares before the first general meeting of the company has been organized shall be withdrawn or paid over to the company until after such meeting has been organized and an election of directors held thereat. Application of money received on account of shares

(6) A subscription for shares made before the granting of a licence under *The Insurance Act* shall contain the stipulation that all money received on account of shares will be returned to the subscribers without any deduction for promotion, organization or other expenses, in case the insurer fails to procure such a licence. Return of subscriptions on failure to secure licence  
R.S.O. 1970, c.224

(7) A subscription for shares shall contain the stipulation that no sum will be used or paid, before or after incorporation, for commission, promotion or organization expenses in excess of a percentage, not exceeding 15, of the amount of money received on account of shares. R.S.O. 1960, c. 71, s. 145 (5-7). Limit of percentage of subscriptions for charges

**164.**—(1) In subsection 2, “surplus to policyholders” means surplus of assets over liabilities excluding issued capital shown in the annual financial statement of the company at the end of the next preceding calendar year as filed with and approved by the Superintendent. Interpretation

(2) Where a company undertaking life insurance has insurance in force of less than \$25,000,000 and has a surplus to policyholders of more than \$500,000, the directors may pass a by-law authorizing an application to the Lieutenant Governor for the issue of supplementary letters patent decreasing its authorized, subscribed and paid-in capital by not more than 50 per cent. Reduction of capital of life insurance companies

(3) The by-law and the supplementary letters patent shall declare the new par value of the shares and the liability of the shareholders on partially paid-in shares. New par value to be declared



Application,  
when to be  
made

(4) The application shall not be made until the by-law has been confirmed by a vote of the shareholders present or represented by proxy at a general meeting duly called for considering it and holding not less than two-thirds of the votes cast at such meeting.

Surplus not  
to be de-  
creased by  
dividends  
to share-  
holders

(5) The supplementary letters patent shall contain a provision that any surplus created by reason of such decrease of capital will not be decreased by dividends subsequently declared to shareholders. R.S.O. 1960, c. 71, s. 146.

Ss. 194 (2-4),  
196, 197  
applicable  
to company  
undertaking  
life insurance

**165.** A company undertaking life insurance may, by resolution passed at a special general meeting called for such purpose, provide that subsections 2, 3 and 4 of section 194 and sections 196 and 197 apply to such company. R.S.O. 1960, c. 71, s. 147.

Amalga-  
mation  
R.S.O. 1970,  
c. 224

**166.** Subject to the approval of the agreement of amalgamation under *The Insurance Act*, section 114 of this Act applies to the amalgamation of two or more joint stock insurance companies. R.S.O. 1960, c. 71, s. 148.

Amalgama-  
tion, etc., of  
mutual cor-  
poration  
and joint  
stock  
corporation

**167.**—(1) Subject to *The Insurance Act*, a mutual corporation incorporated under the laws of Ontario transacting life insurance may amalgamate with or transfer its contracts to or reinsure such contracts with any licensed insurer transacting life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Confirma-  
tion of  
agreement

(2) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, the board of directors may enter into any such agreement on behalf of the mutual corporation through its president and secretary, but no such agreement is binding or effective unless evidence satisfactory to the Superintendent is produced showing that the agreement has been confirmed by a vote of the majority of the members present or duly represented by proxy at a general or special general meeting of the mutual corporation and unless the agreement has been approved by the Lieutenant Governor in Council under *The Insurance Act*.

Agreement  
binding on  
all members  
of mutual  
corporation

(3) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, or in any policy or certificate or other document evidencing a contract issued by a mutual corporation, or in the constitution or laws of or certificates issued by a fraternal society whose contracts have been assumed by the mutual corporation or for which the mutual corporation has become responsible, the terms of any such agreement so confirmed and approved are valid and binding as of the date stipulated in the agreement upon all the members of the mutual corporation and upon their beneficiaries and legal representatives and upon all persons deriving legal rights from any such member or beneficiary so long as they do not involve any new or increased

rates of contribution or premium, and the claims of all persons under any such contract of insurance shall be restricted to such benefits only as are continued in accordance with the terms of such agreement, and such contracts shall be deemed to be amended accordingly.

(4) Upon the coming into force of any such agreement, the reinsurer, in complying with the requirements of *The Insurance Act* in respect of the valuation of contracts so reinsured or transferred, is entitled to base its valuation upon such tables of mortality and upon such rates of interest as would have been authorized by law for such mutual corporation if no such agreement had been made. R.S.O. 1960, c. 71, s. 149.

Standard of  
valuations  
R.S.O. 1970,  
c. 224

**168.**—(1) A mutual or cash-mutual corporation with guarantee capital stock may be incorporated for the purpose of undertaking and transacting any class of insurance for which a mutual or cash-mutual insurance corporation may be licensed under *The Insurance Act*.

Incorporation of  
mutual and  
cash-mutual  
insurance  
corporations

(2) A mutual insurance corporation without guarantee capital stock may be incorporated for the purpose of undertaking contracts of fire insurance on the premium note plan upon agricultural property, weather insurance or live stock insurance. R.S.O. 1960, c. 71, s. 150.

Idem

(3) A mutual insurance corporation without guarantee capital stock, all the members of which are corporations mentioned in subsection 2, may be incorporated for the purpose of reinsuring contracts of insurance entered into by its members, and such a corporation may enter into contracts of reinsurance with any licensed insurer for the purpose of retroceding all or part of reinsurance contracts entered into by it with its members. 1968-69, c. 16, s. 7.

Corporation  
for re-  
insurance

**169.**—(1) Ten freeholders in any municipality may call a meeting of the freeholders thereof to consider whether it is expedient to establish therein a mutual fire insurance corporation without guarantee capital stock to undertake contracts of fire insurance on the premium note plan upon agricultural property.

Incorporation of  
mutual fire  
insurance  
corporation  
without  
guarantee  
capital stock

(2) The meeting shall be called by advertisement, stating the time, place and object of the meeting, and the advertisement shall be published once in *The Ontario Gazette* and at least once a week for three consecutive weeks in a newspaper published in the county or district in which the municipality is situate.

Advertisements calling  
meeting

(3) If thirty freeholders are present at the meeting and a majority of them determine that it is expedient to establish a mutual fire insurance corporation, they may elect from among themselves three persons to open and keep a subscription book in which owners of real or personal property in Ontario may sign their names and enter the sum for which they respectively bind themselves to effect insurance in the corporation.

Subscription  
book

When  
meeting may  
be called

(4) When 100 or more of such owners have signed their names in the subscription book and bound themselves to effect insurance in the corporation amounting in the aggregate to \$250,000 or more, a meeting shall be called as hereinafter provided.

How meeting  
to be called

(5) When the subscription has been completed, any ten of the subscribers may call the first meeting of the proposed corporation at such time and place in the municipality as they determine by sending a printed notice by mail, addressed to each subscriber at his post office address, at least ten days before the day of the meeting, and by advertisement in a newspaper published in the county or district in which the municipality is situate.

Contents of  
notice

(6) The notice and advertisement shall state the object of the meeting and the time and place at which it is to be held.

Election of  
directors

(7) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the words "fire" and "mutual", shall be adopted, an acting secretary appointed, a board of directors elected as hereinafter provided and a central and generally accessible place in the municipality, or in a municipality adjacent thereto, named, at which the head office of the company is to be located.

Quorum of  
meeting

(8) The presence of at least twenty-five of the subscribers is necessary to constitute a valid meeting.

First  
meeting of  
directors

(9) As soon as convenient after the meeting, the acting secretary shall call a meeting of the board of directors for the election from among themselves of a president and a vice-president, for the appointment of a secretary and a treasurer or a secretary-treasurer or a manager and for the transaction of such other business as may be brought before the meeting.

Certain  
documents  
to be  
delivered

(10) With the application for incorporation, the applicants shall produce to the Minister, certified as correct under the hands of the chairman and secretary,

- (a) a copy of the minutes of the meeting, including all resolutions respecting the objects of the proposed corporation, its name and the location of its head office;
- (b) a copy of the subscription book;
- (c) a list showing the names and addresses of the directors elected and of the officers appointed; and
- (d) such further information as the Minister may require.

Production  
of originals

(11) There shall also, for verification, be produced to the Minister, if requested, the originals of such documents.

Minister to  
ascertain  
correctness  
of pro-  
ceedings

(12) The Minister shall ascertain and determine whether the proceedings for the incorporation have been taken in accordance with this section and whether the subscriptions are *bona fide* and by persons possessing property to insure. R.S.O. 1960, c. 71, s. 151 (1-12).

(13) A mutual insurance corporation without guarantee capital stock incorporated for the purposes of undertaking contracts of fire insurance on the premium note plan has and is limited to the power to,

- (a) undertake contracts of fire insurance upon agricultural property or property that is not mercantile or manufacturing or hazardous, on the premium note plan in accordance with *The Insurance Act*; Powers  
R.S.O. 1970,  
c. 224
- (b) in respect of property that it insures against fire, undertake contracts of property damage insurance, theft insurance or any class or classes of insurance set out in section 27 of *The Insurance Act*; and
- (c) undertake contracts of employers' liability insurance or public liability insurance as defined in *The Insurance Act* in the case of persons whose property it insures against fire, but such insurance shall be limited to liability arising from the use and occupancy of the property insured against fire.

(14) The letters patent of a mutual insurance corporation without guarantee capital stock incorporated for the purposes of undertaking contracts of fire insurance on the premium note plan shall be deemed to include power to undertake all the classes of insurance set out in subsection 13. Powers  
deemed in  
letters  
patent 1968-69, c. 16, s. 8.

**170.**—(1) Ten owners of live stock in any municipality may call a meeting of the owners of live stock to consider whether it is expedient to establish a live stock insurance corporation upon the mutual plan. Incorporation of  
mutual live  
stock insurance  
corporation  
without  
guarantee  
capital stock

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock, except that the determination that it is expedient to establish the corporation shall be by thirty residents of the municipality, being owners of live stock in Ontario, and that the meeting for the organization of the corporation shall not be held unless fifty owners of live stock in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation that in the aggregate amounts to \$50,000 or more. Organi-  
zation

(3) The letters patent or supplementary letters patent shall limit the powers of a mutual live stock insurance corporation incorporated under this section to undertaking contracts of insurance on the premium note plan against loss of live stock by fire, lightning, accident, disease or any other means, except that of design on the part of the insured or by the invasion of an enemy or by insurrection. Powers R.S.O. 1960, c. 71, s. 152.



Incorporation of mutual weather insurance corporation without guarantee capital stock

Organization

**171.**—(1) Ten owners of agricultural property in any municipality may call a meeting of the owners of agricultural property to consider whether it is expedient to establish therein a weather insurance corporation upon the mutual plan.

(2) The mode of calling such meeting and the proceedings for the formation of the corporation shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance corporation without guarantee capital stock, except that the determination that it is expedient to establish the corporation shall be by thirty residents of the municipality, being owners of agricultural property in Ontario, and that the meeting for the organization of the corporation shall not be held unless fifty owners of agricultural property in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the corporation that in the aggregate amounts to \$50,000 or more.

Powers

(3) The letters patent or supplementary letters patent shall limit the powers of a mutual weather insurance corporation without guarantee capital stock incorporated under this section to undertaking contracts of insurance on the premium note plan on any kind of agricultural property or property that is not mercantile or manufacturing against loss or injury arising from such atmospheric disturbances, discharges or conditions as the contract of insurance specifies. R.S.O. 1960, c. 71, s. 153.

Cash-mutual corporation

**172.** No cash-mutual insurance corporation shall be incorporated unless formed with guarantee capital stock as hereinafter provided. R.S.O. 1960, c. 71, s. 154.

Application of ss. 174-179 R.S.O. 1970, c. 224

**173.** Sections 174 to 179 apply only to cash-mutual fire insurance corporations licensed under *The Insurance Act* before the 1st day of January, 1914. R.S.O. 1960, c. 71, s. 155.

Increase of share capital

**174.**—(1) A cash-mutual insurance corporation that had a share capital on the 1st day of January, 1925, with the assent of the Lieutenant Governor in Council, may from time to time increase its share capital to such an amount as he considers expedient.

Notice of application

(2) Notice of an application to the Lieutenant Governor in Council under this section shall be published in at least four consecutive issues of *The Ontario Gazette*. R.S.O. 1960, c. 71, s. 156.

Subscribers to become shareholders

**175.** A subscriber to such share capital, on allotment of one or more shares, becomes a shareholder of the corporation. R.S.O. 1960, c. 71, s. 157.

**176.** No insurance on the wholly cash plan makes the insured a member of the corporation or liable to contribute or pay any sum to the corporation, or to its funds, or to any other member thereof, beyond the cash premium agreed upon, or gives him any right to participate in the profits or surplus funds of the corporation. R.S.O. 1960, c. 71, s. 158.

Insurance on cash plan not to constitute membership

**177.** The net annual profits and gains of the corporation, not including therein any premium notes, shall be applied in the first place to pay a dividend on the share capital at a rate not exceeding 10 per cent per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the corporation. R.S.O. 1960, c. 71, s. 159.

Dividends

**178.—(1)** A corporation that has surplus assets, not including premium notes, sufficient to reinsure all its outstanding risks may be formed into a joint stock company upon making application in the manner provided in this Act for the incorporation of joint stock insurance companies.

When cash-mutual company may become a joint stock company

(2) The application shall not be made until approved by the members by a vote representing at least two-thirds of the amount of the unexpired risks, and, if the corporation has share capital, by a vote of at least two-thirds of the issued capital stock represented at an annual general meeting or at a special general meeting and by three-fourths in number of the directors of the corporation in writing signed by them.

Approval of members and shareholders

(3) Notice of the intention to make the application and of the consideration thereof at such meeting shall be published in at least four consecutive issues of *The Ontario Gazette* and in a newspaper published in the county or district in which the head office of the corporation is situate at least once a week for four consecutive weeks before the holding of the meeting.

Notice of application

(4) A person who is a member of the corporation on the day of the meeting is entitled to priority in subscribing to the capital stock of the corporation for one month after the opening of the books of subscription in the ratio that the insurance held by him bears to the aggregate of the unexpired risks then in force. R.S.O. 1960, c. 71, s. 160.

Priority of members in subscribing stock

**179.** A corporation formed under section 178 is answerable for all liabilities of the corporation from which it has been formed and may sue and be sued under its new corporate name, and the assets and property of the old corporation are vested in the new corporation from the date of its formation. R.S.O. 1960, c. 71, s. 161.

Vesting of assets and preservation of liabilities

Mutual  
insurance  
corporation  
with  
guarantee  
capital stock

Number of  
shares

**180.**—(1) A mutual or cash-mutual insurance corporation may be formed with an authorized guarantee capital stock of not less than \$300,000 and not more than \$500,000.

(2) The guarantee capital stock shall be divided into shares of \$100 each. R.S.O. 1960, c. 71, s. 162.

Dividends

**181.** The holders of the guarantee capital stock are entitled to a semi-annual dividend of not more than 4 per cent per annum on their respective shares if there is sufficient surplus in excess of the guarantee capital stock outstanding, after providing for all liabilities and reserves, to pay such dividend. R.S.O. 1960, c. 71, s. 163.

Payment of  
loss out of  
guarantee  
capital

**182.** The guarantee capital shall be applied to the payment of losses only when the corporation has exhausted its assets exclusive of uncollected premiums and, when thus impaired, the directors may make good the whole or any part of it by assessments upon the contingent funds of the corporation at the date of the impairment. R.S.O. 1960, c. 71, s. 164.

Right to  
vote

**183.** Shareholders and members of such corporations are subject to the provisions of this Act relative to their right to vote as applied to shareholders and policyholders in mutual or cash-mutual corporations incorporated without guarantee capital stock. R.S.O. 1960, c. 71, s. 165.

Retirement  
of guarantee  
capital stock

**184.**—(1) The guarantee capital stock shall be retired when the profits accumulated equal 2 per cent of the insurance in force.

Idem

(2) The guarantee capital stock may be reduced or retired by vote of the policyholders of the corporation with the assent of the Superintendent if the net assets of the corporation, above its reinsurance reserve and all other claims and obligations, exclusive of the guarantee capital stock, for the two years last preceding and including the date of its last annual statement, are not less than 25 per cent of the guarantee capital stock.

Notice

(3) Notice of the intention of the corporation to reduce or retire the guarantee capital stock shall be published in at least four consecutive issues of *The Ontario Gazette*, not less than thirty days before the meeting when such action may be taken, and elsewhere if so required by the Superintendent. R.S.O. 1960, c. 71, s. 166.

Distribution  
of guarantee  
capital stock

**185.** No mutual or cash-mutual insurance corporation with a guarantee capital stock, that has ceased to do new business, shall divide among its shareholders any part of its assets or guarantee capital, except income from investments, until it has performed or cancelled its policy obligations and upon proof to the Superintendent that such policy obligations have been performed or cancelled. R.S.O. 1960, c. 71, s. 167.

**186.** Sections 187 to 202 apply only to mutual and cash-mutual fire insurance corporations and to mutual live stock corporations and mutual weather insurance corporations. R.S.O. 1960, c. 71, s. 168.

Mutual and cash-mutual insurance corporations, application of ss. 187-202

**187.**—(1) A person insured under a policy issued by a corporation shall, from the date upon which the insurance becomes effective, be deemed a member of such corporation.

Insured deemed member

(2) No member is liable in respect of any claim or demand against the corporation beyond the amount unpaid on his premium note.

Member's liability

(3) A member may, with the consent of the directors, withdraw from the corporation on such terms as the directors lawfully prescribe, subject to *The Insurance Act*. R.S.O. 1960, c. 71, s. 169.

Member withdrawing  
R.S.O. 1970, c. 224

**188.**—(1) A meeting of the shareholders and members for the election of directors shall be held within the first two months of every year at such time and place as the by-laws of the corporation prescribe.

Annual meeting

(2) Before the election, the annual statement for the year ending on the previous 31st day of December shall be presented and read. R.S.O. 1960, c. 71, s. 170.

Annual statement

**189.** If an election of directors is not made on the day on which it ought to have been made, the corporation shall not for that cause be dissolved, but the election may be held on a subsequent day at a meeting to be called by the directors or as otherwise provided by the by-laws of the corporation, and in such case the directors then in office continue to hold office until their successors are elected. R.S.O. 1960, c. 71, s. 171.

Failure to elect directors

**190.**—(1) Notice of every annual or special general meeting of the corporation shall be sent by mail to every shareholder and member and shall be published in a newspaper published at or near the place where the head office is located at least seven days before the day of the meeting.

Notice of annual or special meetings

(2) The directors may call a general meeting of the corporation at any time.

Power of directors

(3) The directors shall, at least seven days before the day of the annual meeting, send to each member by mail the annual statement for the year ending on the previous 31st day of December, which shall be certified by the auditors and shall be in the form prescribed by the regulations made under section 80 of *The Insurance Act*. R.S.O. 1960, c. 71, s. 172.

Annual statement to be sent to members

R.S.O. 1970, c. 224



Voting  
powers of  
members

**191.**—(1) A member of the corporation is entitled at all meetings of the corporation to the number of votes in proportion to the amount of insurance held by him according to the following scale: under \$1,500, one vote; \$1,500 or over but under \$3,000, two votes; and \$3,000 or over, three votes; but no member is entitled to vote while in arrear for any assessment or cash payment due by him to the corporation.

Where policy  
made to two  
or more  
persons

(2) Where a policy on the premium note plan is made to two or more persons, one only is entitled to vote, and the right of voting belongs to the one first named on the register of policyholders if he is present or, if not present, to the one who stands second, and so on.

Where prop-  
erty  
insured by  
trustee board

(3) Where property is insured by a trustee board, any member of the board or its secretary-treasurer duly appointed in writing pursuant to its resolution may vote on its behalf. R.S.O. 1960, c. 71, s. 173.

Right of  
mere  
applicants

**192.** No applicant for insurance is competent to vote or otherwise take part in the corporation's proceedings until his application has been accepted by the directors. R.S.O. 1960, c. 71, s. 174.

Qualifica-  
tions of  
directors

**193.**—(1) No person is eligible to be or shall act as a director unless he is a member of the corporation and insured therein for the time he holds office,

- (a) in the case of a live stock insurance corporation, to an amount not less than \$200; and
- (b) in the case of every other corporation, to an amount not less than \$800.

Where  
corporation  
has a share  
capital

(2) Where the corporation has a share capital, not less than two-thirds of the directors shall also be holders of shares, each to an amount not less than \$1,000, upon which all calls have been paid.

Representa-  
tion of cor-  
porations

(3) The president or director of a member corporation that has the qualifications that would qualify an individual to be a director is eligible to be a director of the corporation.

Representa-  
tion of  
partnerships

(4) Where a partnership has the qualifications that would qualify an individual to be a director of the corporation, one member of the partnership is eligible to be a director of the corporation. R.S.O. 1960, c. 71, s. 175.

Number of  
directors

**194.**—(1) The board shall consist of six, nine, twelve or fifteen directors, to be determined by resolution passed at the meeting held under subsection 5 of section 169.

(2) The number of directors may from time to time be increased or decreased if so determined at a special general meeting of the corporation called for the purpose, or at an annual general meeting, if notice in writing of the intention to propose a by-law for that purpose at such annual meeting is given to the secretary of the corporation at least one month before the holding of the meeting, but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen.

Increase or decrease in number

(3) Where such a notice has been given to the secretary, that fact shall be stated in the notice of the annual general meeting.

Notice of proposed change

(4) With the copy of the by-law filed with the Superintendent there shall be filed a list of the directors elected thereunder certified under the hands of the chairman and secretary of the meeting. R.S.O. 1960, c. 71, s. 176.

Copy of resolution and list of directors to be filed

**195.** At any annual general meeting of the shareholders or members of a corporation, or at any special general meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it is lawful to pass by-laws for the remuneration of the directors, and a certified copy of every such by-law shall, within seven days after its passing, be filed with the Superintendent. R.S.O. 1960, c. 71, s. 177.

Filing by-laws for remuneration of directors

**196.** One-third of the directors shall retire annually, in rotation, and, at the first meeting of the directors or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered on the minutes of the meeting. R.S.O. 1960, c. 71, s. 178.

Retirement of directors in rotation

**197.** At every annual general meeting thereafter, one-third of the total number of directors shall be elected for a period of three years to fill the places of the retiring directors, who are eligible for re-election. R.S.O. 1960, c. 71, s. 179.

Annual election to fill vacancies

**198.** The manager of the corporation, although he has not the qualifications required by section 193, may be a director of the corporation and may be paid an annual salary under a by-law passed as provided by section 195. R.S.O. 1960, c. 71, s. 180.

Manager may be a director and be paid salary

**199.—**(1) No agent or paid officer, or officer of the bankers of the corporation, or person in the employment of the corporation, other than the manager, is eligible to be elected as a director or shall interfere in the election of directors.

Certain persons not eligible as directors

(2) Nothing in this section applies to a person receiving applications for insurance or taking to his own use the customary application, survey or policy fee or prevents a director from so doing. R.S.O. 1960, c. 71, s. 181.

Fees of director taking application

Election of  
directors

**200.**—(1) The election of directors shall be held and made by such shareholders and members as attend for that purpose in person, or in the case of a corporation or partnership by a director, officer or member authorized in writing to represent it.

Ballot

(2) The election shall be by ballot.

Case of a  
tie at an  
election

(3) If two or more members have an equal number of votes so that less than the whole number to be elected appear to have been chosen directors by a majority of votes, the members present shall proceed to ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors.

Election of  
president  
and vice-  
president

(4) The directors shall, at their first meeting after any such election, elect by ballot from among themselves a president and vice-president, and the secretary shall preside at such election. R.S.O. 1960, c. 71, s. 182.

Interim  
vacancies

**201.** If a vacancy occurs among the directors, during the term for which they have been elected, by death, resignation, ceasing to have the prescribed qualification, insolvency or by absence without previous leave of the directors from three successive regular meetings, which shall *ipso facto* create such vacancy, the vacancy, in the case of a board limited to six directors, shall be filled and, in the case of a board limited to a number of directors exceeding six, may be filled until the next annual general meeting by any person duly qualified chosen by a majority of the remaining directors as soon as may be after the vacancy occurs, and at the next annual general meeting the vacancy shall be filled for the portion of the term still unexpired. R.S.O. 1960, c. 71, s. 183.

Quorum of  
directors

**202.**—(1) A majority of the directors constitutes a quorum for the transaction of business, and, in the case of an equality of votes at any meeting, the question passes in the negative.

Recording  
dissent

(2) A director disagreeing with the majority at a meeting may have his dissent recorded with his reasons therefor. R.S.O. 1960, c. 71, s. 184.

Security of  
accountants

**203.**—(1) Every officer or person appointed or elected to any office concerning the receipt or proper application of money shall furnish security for the just and faithful execution of the duties of his office according to the by-laws or rules of the corporation, and any person entrusted with the performance of any other service may be required to furnish similar security, and security so furnished and then subsisting shall be produced to the auditors at the annual audit.

(2) The security given by the treasurer or other officer having charge of the money of the corporation shall not be less than \$3,000 and shall consist of the bond of a licensed guarantee insurance or surety company. R.S.O. 1960, c. 71, s. 185. Minimum

**204.** Subject to the approval of the agreement of amalgamation under *The Insurance Act*, section 114 applies *mutatis mutandis* to the amalgamation of two or more mutual or cash-mutual insurance corporations. R.S.O. 1960, c. 71, s. 186. Amalgamation  
R.S.O. 1970,  
c. 224

**205.**—(1) Subject to subsection 5, a mutual or cash-mutual insurance corporation may form a permanent reserve fund to consist of such part of the net profits as is from time to time set aside by the directors for that purpose or to be made up by annual assessments for that purpose not exceeding, for any single assessment, 10 per cent on the premium notes held by the corporation until the total of the fund reaches 2 per cent of the corporation insurance in force. Reserve  
fund of  
mutual or  
cash-mutual  
insurance  
corporation

(2) The fund shall be held for the security of the insured and is subject to the provisions of this Act relating to the investment of the funds of insurance companies. Investment  
and income

(3) The income from the fund shall be included in the general receipts of the company and constitutes a part of the net profits, if any. Income part  
of net  
profits

(4) The fund so accumulated shall be used for the payment of losses and expenses when the cash funds of the company in excess of an amount equal to its liabilities, including guarantee capital, if any, are exhausted, and, when the fund is drawn upon the allocation of profits or assessments as aforesaid, may be renewed or continued until the limit of accumulation is reached. Use of  
reserve fund

(5) The fund shall not be reduced by the payment of dividends to shareholders or members or by reduction of current premiums below the limit of 2 per cent of the insurance in force hereinbefore mentioned, but it may be increased beyond such limit if the company so desires. Reduction  
of fund  
prohibited

(6) This section does not apply to corporations undertaking life insurance nor to purely mutual fire insurance corporations insuring risks other than mercantile or manufacturing, upon the premium note plan, nor to purely mutual live stock or weather insurance companies, carrying on business on the premium note plan. R.S.O. 1960, c. 71, s. 187. Application  
of section

**206.**—(1) The Lieutenant Governor may in his discretion, by letters patent, issue a charter to any number of persons, not fewer than seventy-five, of twenty-one or more years of age, five of whom apply therefor, constituting such persons and any others Incorporation  
of  
fraternal  
societies



who have signed the membership book, and persons who thereafter become members in the fraternal society thereby created, a corporation for the purposes of undertaking any class of insurance for which a fraternal society may be licensed under *The Insurance Act*.

R.S.O. 1970,  
c. 224

Notice

(2) The applicants for incorporation, immediately before the application, shall publish in at least four consecutive issues of *The Ontario Gazette* notice of their intention to apply and shall also, if so required, publish elsewhere notice of such intention.

Particulars  
of  
application

(3) The application for the incorporation of a fraternal society shall show,

- (a) its proposed name;
- (b) the place in Ontario where its head office is to be situate;
- (c) the name in full, the place of residence and the calling of each of the applicants who are to be its first trustees or managing officers;
- (d) such other information as the Minister requires.

Other  
documents

(4) The application shall be accompanied by the original membership book or list containing the signatures duly certified of at least seventy-five persons who thereby agree to become members of the fraternal society if and when incorporated, by a copy of the proposed by-laws of the fraternal society and by evidence that the approval of the Superintendent to the proposed by-laws and rules has been obtained. R.S.O. 1960, c. 71, s. 188.

Organiza-  
tion meeting

**207.** Within thirty days after the issue of the letters patent and upon due notice to all members of the society, an organization meeting of the society shall be held at which the by-laws shall be adopted and the officers of the society elected. R.S.O. 1960, c. 71, s. 189.

Incorporation  
of  
foreign  
fraternal  
society

**208.**—(1) Where a fraternal society licensed under *The Insurance Act* has its head office elsewhere than in Ontario, the grand or other provincial body of the lodges or a majority of the lodges in Ontario may apply to the Lieutenant Governor for the issue of a charter and, from the time of the issue of the letters patent, the applicants become a corporation for the purpose of undertaking any class of insurance for which a fraternal society may be licensed under *The Insurance Act*.

Application  
of s. 206 (1)

(2) Subsection 1 of section 206 applies to an incorporation under this section.

Approval of  
Super-  
intendent

(3) Before the issue of the letters patent, evidence shall be produced to the Minister that the approval of the Superintendent to the application has been secured. R.S.O. 1960, c. 71, s. 190.

**209.** An auxiliary or local subordinate body or branch of a licensed fraternal society may be separately incorporated by like proceedings. R.S.O. 1960, c. 71, s. 191.

Incorporation of local branch

**210.**—(1) Subject to *The Insurance Act*, any fraternal society may amalgamate with any other fraternal society or transfer all or any portion of its contracts to or reinsure them with any insurer licensed for the transaction of life insurance and may enter into all agreements necessary to such amalgamation, transfer or reinsurance.

Amalgamation or reinsurance by fraternal society  
R.S.O. 1970, c. 224

(2) Notwithstanding anything in its Act or instrument of incorporation or in its constitution and by-laws, the governing executive authority may enter into any such agreement on behalf of the society through its principal officer and secretary, but no such agreement is binding or effective unless evidence satisfactory to the Superintendent is produced showing that the principle of amalgamation, transfer or reinsurance has been approved and that the agreement has been confirmed by a vote of the majority of the members present or duly represented at a general or special meeting of the supreme legislative or governing body of the society duly called. R.S.O. 1960, c. 71, s. 192.

Agreement for amalgamation, etc.

**211.** Subsection 4 of section 114 applies *mutatis mutandis* to the amalgamation of two or more fraternal societies. R.S.O. 1960, c. 71, s. 193.

Confirmation of amalgamation

**212.**—(1) A mutual benefit society may be incorporated for the purpose of undertaking any class of insurance for which a mutual benefit society may be licensed under *The Insurance Act*, and the provisions of this Part relating to fraternal societies apply *mutatis mutandis* to the incorporation of mutual benefit societies and to such societies when incorporated.

Incorporation of mutual benefit society

(2) The proposed name of a mutual benefit society incorporated under this Part shall include the words “mutual benefit”. R.S.O. 1960, c. 71, s. 194.

Name

**213.** Sections 214 to 225 apply to pension fund and employees’ mutual benefit societies incorporated under this Part. R.S.O. 1960, c. 71, s. 195.

Pension fund and employees’ mutual benefit societies, application of ss. 214-225  
Interpretation

**214.** In this section and in sections 215 to 225,

- (a) “parent corporation” means a corporation any of whose officers establish a pension fund or employees’ mutual benefit society under this Part;
- (b) “society” means a pension fund or employees’ mutual benefit society incorporated under this Part;

- (c) “subsidiary corporation” means a corporation, wherever incorporated, at least 75 per cent of whose issued common shares are owned by a parent corporation. R.S.O. 1960, c. 71, s. 196.

Charter by  
letters  
patent

**215.**—(1) The Lieutenant Governor may in his discretion, by letters patent, issue a charter to any number of persons, not fewer than five, of twenty-one or more years of age, two of whom are officers of a corporation legally transacting business in Ontario who apply therefor, constituting such persons and the employees of such corporation and of its subsidiary corporations who join the society and those who replace them from time to time a pension fund or employees’ mutual benefit society corporation.

Contents of  
application

(2) The application for the incorporation of a pension fund or employees’ mutual benefit society shall show,

- (a) its proposed name;
- (b) the name of its parent corporation;
- (c) the place in Ontario where its head office is to be situate;
- (d) the name in full and place of residence and calling of each of the applicants; and
- (e) the names, not fewer than five, of those who are to be its first directors.

Notice

(3) Notice of the application for incorporation of a society shall be published in at least four consecutive issues of *The Ontario Gazette* and the notice shall state,

- (a) its proposed name;
- (b) the place in Ontario where its head office is to be situate; and
- (c) the name of its secretary. R.S.O. 1960, c. 71, s. 197.

First  
meeting

**216.** The first directors have power to call the first meeting of the society and at such meeting directors may be elected and by-laws may be passed under this Act, and a copy of such by-laws shall be filed with the Minister within two weeks after the passing thereof, and copies of subsequent by-laws in amendment thereof, in addition thereto or diminution therefrom, shall also be filed with the Minister within two weeks after the passing thereof. R.S.O. 1960, c. 71, s. 198.

Directors

**217.**—(1) The affairs of the society shall be administered by a board of directors who shall be appointed or elected in such manner, in such number, with such qualifications and for such period as are determined by the by-laws, but at the first meeting of the society five directors shall be elected, subject to addition to such number if so sanctioned by the by-laws, and other officers

may be appointed in such manner with such remuneration and under such provisions touching their powers and duties as are established by the by-laws.

(2) The board of directors may by by-law entrust the whole or a part of the fund of the society to a trust company licensed under the law of Ontario and may delegate to such trust company all or any of its powers and discretions relating to the custody and management of the fund. Management of fund by trust company R.S.O. 1960, c. 71, s. 199.

**218.**—(1) In this section, “dependants” means the wives, Interpretation husbands, and children under twenty-one years of age, including adopted children, of officers or employees within the meaning of this section.

(2) After its incorporation, every pension fund and employees’ Powers and objects of society mutual benefit society has the power, by means of voluntary contribution or otherwise as its by-laws provide, to form a fund or funds and may invest, hold and administer the same and may therefrom,

- (a) provide for the support and payment of pensions and other benefits to officers and employees of the parent corporation and its subsidiary corporations who have retired or who cease to be employed by the parent corporation or one of its subsidiary corporations;
- (b) provide, in such manner as the by-laws specify, for the payment of pensions, annuities, gratuities or other benefits to the widows and children or other surviving relatives or legal representatives of officers and employees or retired officers and employees of the parent corporation and its subsidiary corporations who have died;
- (c) provide for the payment of benefits to officers and employees of the parent corporation or one of its subsidiary corporations by reason of illness, accident or disability;
- (d) provide for the payment of benefits by reason of illness, accident or disability to former officers and employees of the parent corporation and its subsidiary corporations who are retired;
- (e) provide for the payment of benefits to officers and employees or retired officers and employees of the parent corporation or one of its subsidiary corporations in respect of illness, accident or disability affecting dependants of such officers or employees; and
- (f) upon the death of such officers or employees, pay a funeral benefit in such manner as the by-laws specify. 1960-61, c. 13, s. 1.



Power to  
pass by-laws

**219.**—(1) A pension fund and employees' mutual benefit society has all corporate powers necessary for its purposes and may pass by-laws not contrary to law defining and regulating in the premises, and prescribing the mode of enforcement of, all the rights, powers and duties of,

- (a) the society;
- (b) its individual members;
- (c) the officers and employees of the parent corporation and its subsidiary corporations;
- (d) the widows and children or other surviving relatives, or the personal representatives of such officers and employees; and
- (e) the parent corporation.

Additional  
by-laws

- (2) Every such society may also make by-laws as aforesaid for,
  - (a) the formation and maintenance of the fund;
  - (b) the management and distribution of the fund;
  - (c) the enforcement of any penalty or forfeiture in the premises; and
  - (d) the government and ordering of all business and affairs of the society.

Sanction of  
parent  
corporation

(3) No such by-law is effective unless it has been sanctioned by the board of directors of the parent corporation. R.S.O. 1960, c. 71, s. 201.

By-laws  
defining  
rights and  
remedies of  
benefi-  
ciaries, etc.

**220.** All the powers, authority, rights, penalties and forfeitures whatever of the society or of its members, officers or employees, or of such widows and children or other surviving relatives or legal representatives, or of the parent corporation shall be such and such only and may be enforced in such mode and in such mode only, as by such by-laws are defined and limited. R.S.O. 1960, c. 71, s. 202.

Revenue

**221.** All the revenue of the society, from whatever source derived, shall be devoted exclusively to the maintenance of the society and the furtherance of the objects of the fund and to no other purpose. R.S.O. 1960, c. 71, s. 203.

Contribution  
by parent  
corporation

**222.** The parent corporation may contribute annually or otherwise to the funds of the society by a vote of its directors or its shareholders. R.S.O. 1960, c. 71, s. 204.

Prohibition  
against  
member  
assigning  
interest

**223.** The interest of a member in the funds of the society is not transferable or assignable by way of pledge, hypothecation, sale, security or otherwise. R.S.O. 1960, c. 71, s. 205.

**224.**—(1) Where it is shown to the satisfaction of the Minister that the accounts of a society have been materially or wilfully falsified, or where there is filed in the office of the Minister a requisition for audit bearing the signatures, addresses and callings of at least 25 per cent of the members of the society and alleging in a sufficiently particular manner to the satisfaction of the Minister specific fraudulent or illegal acts, or the repudiation of obligations, or insolvency, the Minister may appoint one or more accountants or actuaries who shall, under his direction, make a special audit of the books and accounts and report thereon in writing verified upon oath to the Minister.

Special  
audit

(2) Where an audit is requested, the persons requesting it shall, with their requisition, deposit with the Minister security for the costs of the audit in such sum as he fixes, and, where the facts alleged in the requisition appear to the Minister to have been partly or wholly disproved by the audit, he may pay the costs thereof partly or wholly out of the deposit.

Security for  
costs

(3) The society, its officers and servants shall facilitate the making of such special audit so far as it is in their power and shall produce for inspection and examination by the person so appointed such books, securities and documents as he may require.

Duty to  
facilitate  
special audit

(4) Subject to subsection 2, the expense of such special audit shall be borne by the society, and the auditor's account, when approved in writing by the Minister, shall be paid by the society forthwith. R.S.O. 1960, c. 71, s. 206.

Expense of  
special audit

**225.** A society formed under this Act shall at all times when thereunto required by the Minister make a full return of its assets and liabilities and of its receipts and expenditures for such period and with such details and other information as the Minister may require. R.S.O. 1960, c. 71, s. 207.

Return to  
Minister

**226.**—(1) If an insurer incorporated under the law of Ontario, whether under this Act or under any general or special Act, does not go into actual *bona fide* operation within two years after incorporation, or if, after an insurer has undertaken contracts, such insurer discontinues business for one year, or if its licence remains suspended for one year, or is terminated otherwise than by effluxion of time and is not renewed within the period of sixty days, the insurer's corporate powers *ipso facto* cease and determine, except for the sole purpose of winding up its affairs, and in any action or proceeding in which such non-user is alleged, proof of user is upon the insurer, and the Supreme Court, upon the petition of the Minister of Justice and Attorney General or of any person interested, may limit the time within which the insurer is to settle and close its accounts, and may, for that purpose or for the purpose of liquidation generally, appoint a receiver. R.S.O. 1960, c. 71, s. 210 (1), *amended*.

When  
charter to be  
forfeited  
for non-user  
or discon-  
tinuance

Rights of  
creditors

(2) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture. R.S.O. 1960, c. 71, s. 210 (2).

Interpre-  
tation

**227.** In sections 228 to 234, “shareholder” includes member and participating policyholder eligible to vote for a policyholders’ director. R.S.O. 1960, c. 71, s. 211.

Information  
laid before  
annual  
meetings of  
life insurers

**228.**—(1) The directors of an insurer undertaking and transacting life insurance shall lay before each annual meeting of shareholders,

- (a) a financial statement for the period commencing on the date of incorporation and ending not more than six months before such annual meeting or commencing immediately after the period covered by the previous financial statement and ending not more than six months before such annual meeting, as the case may be, made up of,
  - (i) a statement of revenue and expenditure for such period,
  - (ii) a statement of surplus for such period,
  - (iii) a balance sheet made up to the end of such period;
- (b) the report of the auditor to the shareholders;
- (c) such further information respecting the financial position of the insurer as the letters patent, supplementary letters patent or by-laws of the insurer require.

Contents of  
financial  
statement

(2) The statements referred to in the subclauses of clause *a* of subsection 1 shall comply with and be governed by sections 229 to 233, but it is not necessary to designate them the statement of revenue and expenditure, statement of surplus and balance sheet.

Incorporation  
of  
statements

(3) The statement of surplus referred to in subclause ii of clause *a* of subsection 1 and the information required by subsections 2 and 3 of section 230 may be incorporated in and form part of the statement of revenue and expenditure referred to in subclause i of clause *a* of subsection 1.

Auditor's  
report to  
be read

(4) The report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection by any shareholder. R.S.O. 1960, c. 71, s. 212.

Statement  
of revenue  
and  
expenditure

**229.**—(1) The statement of revenue and expenditure to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the insurer for the period covered by the statement and so as to distinguish severally at least,

- (a) premium income;

- (b) income from invested assets;
- (c) profit or loss from sale of invested assets;
- (d) amounts by which values of invested assets are increased or decreased;
- (e) payments to policyholders and beneficiaries, other than the disbursement of moneys previously left on deposit;
- (f) increase or decrease in actuarial liability under insurance and annuity contracts;
- (g) total remuneration of directors as such from the insurer, including all salaries, bonuses, fees, contributions to pension funds and other emoluments;
- (h) premium taxes;
- (i) head office, agency, investment and other operating expenses;
- (j) the amount transferred to or from general surplus.

(2) Notwithstanding subsection 1, items of the natures described in clauses *d* and *g* of subsection 1 may be shown by way of note to the statement of revenue and expenditure. R.S.O. 1960, c. 71, s. 213. Notes

**230.**—(1) The statement of surplus shall be drawn up so as to present fairly the transactions reflected in it and shall show separately a statement of general surplus and a statement of shareholders' surplus, howsoever designated. Statement of surplus

(2) The statement of general surplus shall be drawn up so as to distinguish at least the following items: General surplus

1. The balance of each amount making up the total of general surplus as shown in the balance sheet at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and, without restricting the generality of the foregoing, at least the following:
  - i. The amount shown on the statement of revenue and expenditure as transferred to or from general surplus.
  - ii. The amount of surplus arising from the issue of shares or the reorganization of the insurer's issued capital, including *inter alia*,
    - (a) the amount of premiums received on the issue of shares at a premium;
    - (b) the amount of surplus realized on the purchase for cancellation of shares.



iii. Donations of cash or other property by shareholders.

3. The balance of each amount making up such general surplus as shown in the balance sheet at the end of the financial period.

Share-  
holders'  
surplus

(3) The statement of shareholders' surplus shall be drawn so as to distinguish at least the following items:

1. The balance of such surplus as shown in the balance sheet at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and, without restricting the generality of the foregoing, at least the following:
  - i. The amount transferred to or from general surplus.
  - ii. Provision for taxes on income.
  - iii. The amount of dividends declared on each class of shares.
3. The balance of such surplus as shown in the balance sheet at the end of the financial period. R.S.O. 1960, c. 71, s. 214.

Balance  
sheet

**231.**—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the insurer as at the date to which it is made up and so as to distinguish severally at least the following:

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1. The invested assets of the insurer as described in Part XVII of *The Insurance Act*, severally designated as follows:
  - i. Cash.
  - ii. Preference and common shares.
  - iii. Bonds and debentures.
  - iv. Mortgages.
  - v. Real estate held for sale.
  - vi. Real estate held for the production of income.
  - vii. Head office buildings.
  - viii. Agreements for sale.
  - ix. Loans on policies.
  - x. Other invested assets stating their nature.
2. Other assets of the insurer distinguishing severally at least the following:
  - i. Net outstanding premiums due and deferred.
  - ii. Interest and rents due and accrued.

- iii. Debts owing to the insurer from its shareholders except debts of reasonable amount arising in the ordinary course of the insurer's business that are not overdue having regard to the insurer's ordinary terms of credit.
  - iv. The aggregate amount of any outstanding loans under clauses *c*, *d* and *e* of subsection 2 of section 25.
3. The actuarial liability under insurance and annuity contracts.
  4. Bank loans and overdrafts.
  5. Provision for unpaid and unreported claims.
  6. All other liabilities to policyholders.
  7. Debts owing by the insurer on loans from its directors, officers or shareholders.
  8. Commissions and other debts owing by the insurer segregating those that arose otherwise than in the ordinary course of business.
  9. Deferred income.
  10. Liability for taxes.
  11. Dividends on capital stock declared but not paid.
  12. The authorized capital, giving the number of each class of shares and a brief description of each such class and indicating therein any class of shares which is redeemable and the redemption price thereof.
  13. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
    - (a) the number of shares of each class issued since the date of the last balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration; and
    - (b) where any shares have not been fully paid,
      - (i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
      - (ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.
  14. Reserves, as described in clauses *a*, *b* and *c* of subsection 1 of section 234, showing the amounts added thereto and the amounts deducted therefrom during the financial period.

15. The amounts making up the surplus of the insurer severally designated as follows:

- i. General surplus.
- ii. Shareholders' surplus.
- iii. Other surplus balances indicating their nature. R.S.O. 1960, c. 71, s. 215 (1), *amended*.

Notes

(2) Notwithstanding subsection 1, particulars of the items described in paragraphs 12 and 13 of subsection 1 may be shown by way of note to the balance sheet.

Idem

(3) The basis of valuation of the invested assets of the insurer shall be shown by way of note to the balance sheet. R.S.O. 1960, c. 71, s. 215 (2, 3).

Notes to  
financial  
statement

**232.**—(1) There shall be stated by way of note to the financial statement particulars of any change in accounting or actuarial principle or practice or in the method of applying any accounting or actuarial principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the results of operations for the period.

Idem

(2) Where applicable, the following matters shall be referred to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the insurer.
3. Contractual obligations that will require abnormal expenditures in relation to the insurer's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
5. Any liability secured otherwise than by operation of law on any asset of the insurer, stating the liability so secured, but it is not necessary to specify the asset on which the liability is secured.
6. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.
7. Where an insurer has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.

8. Any restriction by the letters patent, supplementary letters patent or by-laws of the insurer or by contract on the payment of dividends that is significant in the light of the insurer's financial position.

(3) Every note to a financial statement is an integral part of it. Idem R.S.O. 1960, c. 71, s. 216.

**233.** Notwithstanding sections 229 to 232, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance. Insignificant circumstances R.S.O. 1960, c. 71, s. 217.

**234.**—(1) In a financial statement, the term “reserve” shall be used to describe only, Reserves

- (a) amounts appropriated from surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from surplus pursuant to the instrument of incorporation, instrument amending the instrument of incorporation or by-laws of the insurer for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from surplus in accordance with the terms of a contract and which can be restored to the surplus when the conditions of the contract are fulfilled.

(2) Notwithstanding subsection 1, the term “reserve” may be used to describe the actuarial liability under insurance and annuity contracts. Idem R.S.O. 1960, c. 71, s. 218.

**235.** The auditor of a joint stock insurance company or a cash mutual insurance corporation shall in the report required to be made by subsection 2 of section 97 also make such statements as he considers necessary, Auditor's report, joint stock insurance companies and cash mutuals

- (a) if, in the case of corporations transacting other than life insurance, the provision for unearned premiums is not calculated as required by *The Insurance Act*;
- (b) if the provision for unpaid claims, in his opinion, is not adequate;
- (c) if the financial statement includes as assets items prohibited by *The Insurance Act* from being shown in the annual statements required to be filed thereunder; or

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- (d) if any of the transactions of the corporation that have come to his notice have not been within its powers. R.S.O. 1960, c. 71, s. 219.

Delivery of  
by-laws to  
Superin-  
tendent

**236.** Every insurer shall deliver to the Superintendent within one month after passing thereof, a certified copy of its by-laws and of every repeal or addition to or amendment or consolidation thereof. R.S.O. 1960, c. 71, s. 220.

Balance  
sheets and  
statements

**237.** A copy of every balance sheet or other statement published or circulated by an insurer, purporting to show its financial condition, shall be mailed or delivered to the Superintendent, concurrently with its issue to its shareholders or policyholders, or to the general public. R.S.O. 1960, c. 71, s. 221.

Offence

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c. 224

**238.** A person who fails to comply with section 235, 236 or 237 shall be deemed to be guilty of an offence under *The Insurance Act*. R.S.O. 1960, c. 71, s. 222.

Directors of  
joint stock  
insurance  
company,  
qualifi-  
cations

**239.** Subject to section 240, no person is eligible to become or shall be elected a director of a joint stock insurance company unless he is twenty-one or more years of age and holds in his own name and for his own use and absolutely in his own right shares of the capital stock of the company upon which at least \$500 has been paid into the capital account of the corporation and has paid in cash all calls and instalments due thereon and all liabilities incurred by him to the company. R.S.O. 1960, c. 71, s. 223; 1962-63, c. 24, s. 8; 1968-69, c. 16, s. 9.

Share-  
holders'  
directors;  
policy-  
holders'  
directors

**240.**—(1) A joint stock life insurance company may, by by-law, provide that the affairs of the company shall be managed by a board of directors of whom a specified number, herein called shareholders' directors, shall be elected by the shareholders of the company, and a specified number, herein called policyholders' directors, shall be elected by those persons, herein called participating policyholders, whose lives are insured under a participating policy or participating policies of the company for at least \$2,000 upon which no premiums are due, whether or not any such person is a shareholder of the company.

Number of  
directors;  
vacancies

(2) A by-law passed under subsection 1 shall provide for the election of not fewer than nine and not more than twenty-one directors, of whom not fewer than one-third shall be policyholders' directors, and any vacancy occurring in the board of directors may be filled for the remainder of the term by the directors.

Participat-  
ing policy-  
holders'  
right to vote

(3) Participating policyholders are entitled to attend and vote in person and not by proxy at all general meetings of the company, but as such are not entitled to vote for the election of shareholders' directors, but this section does not confer rights or impose liabilities on such participating policyholders in a liquidation of the company.

(4) A holder of a participating policy or participating policies of the company for at least \$4,000 exclusive of bonus additions, upon which no premiums are due, who is not a shareholder and who has paid premiums on such policy or policies for at least three full years is eligible for election as a policyholders' director.

Policy-holders' director, qualifications

(5) Such a life insurance company shall have a fixed time in each year for its annual meeting and such time shall be printed in prominent type on each premium notice or each premium receipt issued by the company, and, in addition to all other notices required to be given by this Act, it shall give fifteen days notice of such meeting in two or more daily newspapers published at or as near as may be to the place where the company has its head office. R.S.O. 1960, c. 71, s. 224.

Annual meeting

**241.** Notwithstanding anything in the letters patent incorporating the company or in its by-laws or in this Act, a joint stock life insurance company may, with the permission of the minister charged with the administration of *The Insurance Act*, establish and implement a plan for the conversion of the company into a mutual company by the purchase of shares of the capital stock of the company in accordance with the Schedule to this Act. 1962-63, c. 24, s. 9.

Conversion of joint stock life companies into mutual companies  
R.S.O. 1970, c. 224

**242.** In sections 243 to 254,

Interpretation

- (a) "deposit" means the deposit required under section 44 of *The Insurance Act*;
- (b) "insured person" means a person who enters into a subsisting contract of insurance with an insurer and includes,
  - (i) every person insured by a contract whether named or not,
  - (ii) every person to whom or for whose benefit all or part of the proceeds of a contract of insurance are payable, and
  - (iii) every person entitled to have insurance money applied toward satisfaction of his judgment in accordance with section 225 of *The Insurance Act*;
- (c) "loss" includes the happening of an event or contingency by reason of which a person becomes entitled to a payment under a contract of insurance of money other than a refund of unearned premiums;
- (d) "Minister" means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of *The Insurance Act*;

- (e) "Ontario contract" means a subsisting contract of insurance that,
- (i) has for its subject,
    - a. property that at the time of the making of the contract is in Ontario or is in transit to or from Ontario, or
    - b. the life, safety, fidelity or insurable interest of a person who at the time of the making of the contract is resident in Ontario or of an incorporated company that has its head office in Ontario, or
  - (ii) makes provision for payment thereunder primarily to a resident of Ontario or to an incorporated company that has its head office in Ontario;
- (f) "reciprocal deposit" means a deposit of an insurer held under section 72 or 73 of *The Insurance Act*;
- (g) "reciprocating province" means a province that has been declared to be a reciprocating province under clause a of subsection 1 of section 72 or subsection 1 of section 73 of *The Insurance Act*, with respect to the deposit of a particular insurer. R.S.O. 1960, c. 71, s. 225.

R.S.O. 1970,  
c. 224

Application  
of Part VII

**243.**—(1) The provisions of Part VII relating to the winding up of corporations apply to insurers incorporated under or subject to this Act except where inconsistent with this Part.

Interpre-  
tation

(2) Where the company, corporation or society is not constituted exclusively or chiefly for insurance purposes and the insurance branch and fund are completely severable from every other branch and fund of the company, corporation or society, the word "insurer" for the purposes of sections 244 to 257 means only the insurance branch of the company, corporation or society. R.S.O. 1960, c. 71, s. 226.

Winding up  
by order of  
court on  
application  
of Superin-  
tendent

**244.**—(1) An insurer incorporated in Ontario may also be wound up by order of the Supreme Court on the application of the Superintendent, if the court is satisfied that,

- (a) the insurer has failed to exercise its corporate powers during any continuous period of four years; or
- (b) the insurer has not commenced business or gone into actual operation within four years after it was incorporated; or
- (c) the insurer has discontinued business for one year after it has undertaken insurance contracts within the meaning of *The Insurance Act*; or

- (d) the insurer's licence has been suspended for one year or more; or
- (e) the insurer has carried on business or entered into a contract or used its funds in a manner or for a purpose prohibited or not authorized by *The Insurance Act* or by its Act of incorporation or by any special Act applicable thereto; or
- (f) other sufficient cause has been shown.

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c. 224

(2) No such application shall be made by the Superintendent without the approval of the Lieutenant Governor in Council.

Approval of  
Lieutenant  
Governor  
in Council

(3) Upon the making of an order under this section, the provisions of Part VII relating to the winding up of a corporation, in so far as they are not inconsistent with this Part, apply. R.S.O. 1960, c. 71, s. 227.

Application  
of Part VII

**245.**—(1) In the case of an insurer incorporated in Ontario,

Provisional  
liquidator  
appoint-  
ment

- (a) if its licence expires and,
  - (i) the insurer fails to renew within the period limited by *The Insurance Act*, or
  - (ii) a renewal is refused; or
- (b) if its licence is cancelled,

the Minister may appoint a provisional liquidator who shall take charge of the affairs of the company and may direct that it be wound up forthwith under this Act.

(2) Until a permanent liquidator is appointed, the provisional liquidator shall exercise all the powers of the insurer and none of the officers or servants of the insurer shall make any contract for, incur any liability on behalf of, or expend any moneys of, the insurer without the approval of the provisional liquidator.

Powers

(3) The provisional liquidator shall petition the Supreme Court for a winding-up order, and, if the court is of the opinion that it is just and equitable so to do, it may make an order winding up the company and thereupon the provisions of this Act relating to the winding up of a corporation, in so far as they are not inconsistent with this Part, apply.

Petition by  
provisional  
liquidator  
for winding-  
up order

(4) The provisional liquidator or the liquidator, notwithstanding this Act, but, subject to the approval of the Supreme Court, may sell the business and undertaking of the company as a going concern. R.S.O. 1960, c. 71, s. 228.

Sale of  
business



Remuneration of provisional liquidator

**246.**—(1) The remuneration to be paid to a provisional liquidator appointed under subsection 1 of section 245 shall be fixed by the Minister.

Payment of costs of provisional liquidator

(2) The remuneration and all expenses and outlay in connection with the appointment of the provisional liquidator, together with all expenses and outlay of the provisional liquidator while he acts in that capacity, shall be borne and paid by the insurer and form a first lien or charge upon the assets of the insurer, other than the deposit, unless otherwise directed under subsection 3.

Payment of cost of provisional liquidator out of deposit

(3) The Minister in his discretion may direct that the remuneration, expenses and outlay shall be paid out of the proceeds of the deposit made by the insurer, and in that case the amount directed to be paid has the same priority as the expenses of the receiver administering the deposit as fixed by clause *a* of section 61 of *The Insurance Act*. R.S.O. 1960, c. 71, s. 229.

R.S.O. 1970, c. 224

Notice of intention to cease writing insurance or to consider voluntary liquidation

**247.**—(1) When an insurer incorporated under or subject to the law of Ontario proposes to cease writing insurance or to call a general meeting to consider a resolution for its voluntary liquidation under this Act, it shall give at least one month's notice in writing thereof to the superintendent of insurance of each province in which the insurer is licensed.

Notice to Superintendent of voluntary winding up

(2) When an insurer has passed a resolution for voluntary winding up, the insurer shall notify the Superintendent thereof and of the date on which contracts of insurance will cease to be entered into by the insurer and of the name and address of its liquidator.

Publication of notice

(3) The notice under subsection 2 shall also be published by the insurer in two consecutive issues of *The Ontario Gazette* and the official gazette of each other province in which the insurer is licensed and in such newspapers and other publications as the Superintendent may require. R.S.O. 1960, c. 71, s. 230.

Reinsurance

**248.**—(1) The provisional liquidator or the liquidator, before any order granting administration of the deposit and before the fixing of a termination date pursuant to section 250, may arrange for the reinsurance of the subsisting contracts of insurance of the insurer with some other insurer licensed in Ontario.

Funds available for reinsurance

(2) For the purpose of securing the reinsurance, the following funds shall be available:

1. The entire assets of the insurer in Ontario other than the deposit except the amount reasonably estimated by the provisional liquidator or the liquidator as being required to pay,
  - (a) the costs of the liquidation or winding up;

- (b) all claims for losses covered by the insurer's contracts of insurance of which notice has been received by the insurer or provisional liquidator or liquidator before the date on which the reinsurance is effected;
- (c) the claims of the preferred creditors who are the persons paid in priority to other creditors under the winding-up provisions of this Act,

all of which shall be a first charge on the assets of the insurer, other than the deposit.

2. All or such portion, if any, of the deposit as is agreed upon pursuant to subsection 3.

(3) If it appears necessary or desirable to secure reinsurance for the protection of insured persons entitled to share in the proceeds of the deposit, the Minister, on the recommendation of the Superintendent, or, in the case of a reciprocal deposit, the superintendents of insurance of the reciprocating provinces, may enter into an agreement with the provisional liquidator or the liquidator, whereby, pursuant to section 50 or 74 of *The Insurance Act*, all or any part of the securities in the deposit may be used for the purpose of securing the reinsurance.

Agreement for use of deposit for reinsurance

R.S.O. 1970, c. 224

(4) The creditors of the insurer, other than the insured persons and the said preferred creditors, are entitled to receive a payment on their claims only if provision has been made for the payments mentioned in subsection 2 and for the reinsurance.

Payments to creditors other than preferred creditors

(5) If, after providing for the payments mentioned in subsection 2, the balance of the assets of the insurer, together with all or such portion, if any, of the deposit as is agreed upon under subsection 3, is insufficient to secure the reinsurance of the contracts of the insured persons in full, the reinsurance may be effected for such portion of the full amount of the contracts as is possible.

Reinsurance of part of contracts

(6) No contract of reinsurance shall be entered into under this section until it is approved by the Supreme Court. R.S.O. 1960, c. 71, s. 231.

Approval

**249.**—(1) In the winding up of an insurer that has made a deposit pursuant to *The Insurance Act*, if the person appointed as receiver to administer the deposit pursuant to section 55 of *The Insurance Act* is not the person appointed as the provisional liquidator or the liquidator under *The Insurance Act* or this Act or appointed as the liquidator under the *Winding-up Act* (Canada), as the case may be, the Supreme Court at any time in its discretion may order that the deposit and the administration thereof be transferred from the receiver to the provisional liquidator or the liquidator.

Transfer of deposit from receiver to provisional liquidator or liquidator

R.S.C. 1952, c. 296

Administra-  
tion of  
deposit

(2) Upon the making of an order under subsection 1, the provisional liquidator or the liquidator shall administer the deposit for the benefit of the persons entitled to share in the proceeds thereof in accordance with the provisions of and the priorities set out in this Act.

Costs of  
administra-  
tion of  
deposit

R.S.O. 1970,  
c. 224

(3) The amount payable to the provisional liquidator or the liquidator for administering the deposit and all costs and expenses incurred by him in administering the deposit shall be paid out of the deposit in accordance with the priorities fixed by clause *a* of section 61 of *The Insurance Act*, but the amount payable to the provisional liquidator or the liquidator and all costs and expenses incurred by him in the winding up of the insurer shall not be paid out of the deposit but shall be paid out of and are a first charge on the assets of the insurer except as provided in subsection 3 of section 246. R.S.O. 1960, c. 71, s. 232.

Termination  
date, where  
reinsurance  
not  
arranged

**250.**—(1) If the provisional liquidator or the liquidator fails to secure reinsurance, or if in his opinion it is impracticable or inexpedient to arrange for reinsurance, he,

(a) with the approval of the Supreme Court and subject to such terms as are prescribed by it; and

(b) for the purpose of securing the payment of existing claims and avoiding further losses,

may publish a notice fixing a termination date for the subsisting contracts of insurance of such insurer, and on and after that date coverage and protection under the Ontario contracts cease and the insurer is not liable under any such contract for a loss that occurs after that date.

Termination  
of Ontario  
contracts,  
where ter-  
mination  
date fixed  
in another  
province

(2) Where a provisional liquidator or a liquidator has been appointed in another province to wind up an insurer incorporated in that province, and if such provisional liquidator or liquidator fixed a termination date for the contracts of insurance of the insurer, on and after that date coverage and protection under the Ontario contracts cease and determine and the insurer is not liable under any such contract for a loss that occurs after that date.

Where  
termination  
date fixed  
by receiver

(3) Where a receiver administering a deposit has fixed a termination date under section 56 of *The Insurance Act*, the termination date fixed under this section applies only to those contracts of insurance not already terminated on the date fixed by the receiver. R.S.O. 1960, c. 71, s. 233.

Publication  
of notice of  
termination  
date

**251.** The provisional liquidator or the liquidator shall cause the notice,

(a) to be published in *The Ontario Gazette* and in the official gazette of each other province in which the insurer is licensed and in such newspapers as the Supreme Court directs in order to give reasonable notice of the termination date so fixed; and

- (b) to be mailed to each policyholder at his address as shown on the books and records of the company. R.S.O. 1960, c. 71, s. 234.

**252.**—(1) The liquidator shall pay or set aside from the assets of the insurer sums in his opinion sufficient to pay,

Payment of claims for losses and preferred claims, etc.

- (a) the costs of the liquidation or winding up;
- (b) all claims for losses covered by the insurer's contracts of insurance that occurred before the termination date fixed under section 56 of *The Insurance Act* or section 250 of this Act and that have not been paid or provided for in the administration of the deposit and of which notice has been received by the insurer or the liquidator;
- (c) the full amount of the legal reserve in respect of each unexpired life insurance contract; and
- (d) the claims of preferred creditors who are the persons paid in priority to other creditors under the winding-up provisions of this Act.

R.S.O. 1970, c. 224

(2) Except in the case of life insurance, the assets remaining after payment or making provision for payment of the amounts mentioned in subsection 1 shall be used to pay the claims of the insured persons for refunds of unearned premiums on a *pro rata* basis in proportion to the periods of their contracts respectively unexpired on the termination dates to the extent that those claims have not been paid or provided for in the administration of the deposit.

Refund of unearned premiums

(3) The claims of the insured persons for refunds of unearned premiums shall be calculated,

Calculation of unearned premium claims

- (a) as at the termination date fixed under section 56 of *The Insurance Act* or section 250 of this Act; or
- (b) as at the date the insured person cancelled the contract,

whichever date is the earlier.

(4) The refund of all or a portion of the premium does not destroy or defeat any other remedy the insured person may have against the insurer in respect thereof or for any other cause.

Effect of refund

(5) Nothing in this section prejudices or affects the priority of any mortgage, lien or charge upon the property of the insurer. R.S.O. 1960, c. 71, s. 235.

Effect of section

**253.** The fees, taxes and costs payable by the insurer to each province shall be paid out of the assets of the insurer remaining after the reinsurance of the subsisting contracts of insurance of the insurer or after the payment of the claims of policyholders for refund of unearned premiums, as the case may be, and the balance

Payment of provincial fees and taxes, etc.



shall be distributed among the creditors of the insurer other than the insured persons, preferred creditors and the several provinces. R.S.O. 1960, c. 71, s. 236.

Filing of  
statements  
by liqui-  
dator

**254.**—(1) Unless otherwise ordered by the Supreme Court, within seven days after the close of each period of three months and until the affairs of the insurer are wound up and the accounts are finally closed, the liquidator shall file with the court or other authority appointing him and also with the Superintendent detailed schedules, in such form as is required, showing,

- (a) receipts and expenditures; and
- (b) assets and liabilities.

Production  
of books,  
etc., by  
liquidator

(2) The liquidator, whenever he is required so to do by the authority appointing him or by the Minister, shall exhibit the office books and vouchers and furnish such other information respecting the affairs of the insurer as is required.

Offence

(3) Every liquidator refusing or neglecting to furnish such information is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200 and in addition is liable to be dismissed or removed. R.S.O. 1960, c. 71, s. 237.

Distribution  
of endow-  
ment and  
expectancy  
funds

**255.**—(1) Where a fraternal society transacts endowment or expectancy insurance and has an endowment fund separate and distinct from its life insurance fund, the society may, by resolution duly passed at a general meeting, after at least one month's notice of such intended resolution, determine that the endowment or expectancy shall be discontinued, and that the endowment or expectancy fund shall be distributed *pro rata* among the members then in good standing who are contributing to such fund according to the total contribution of such member.

Procedure

(2) After the resolution has been assented to by the Superintendent and filed with the Minister, the executive officers may proceed to ascertain the persons intended to rank upon the fund and may distribute the fund among those so entitled, and such distribution discharges the society and all executive officers thereof from all further or other liability in respect of such fund and of the endowment or expectancy contracts undertaken by the society.

Merger of  
funds

(3) If all the members interested in the endowment or expectancy fund are also interested as holders of life insurance contracts, the general meeting, instead of determining to distribute the endowment or expectancy fund, may determine to convert it into or merge it in a life insurance fund, and after the resolution has been assented to and filed as provided in subsection 2, the endowment or expectancy fund becomes a life insurance fund. R.S.O. 1960, c. 71, s. 238.

**256.** Notwithstanding anything in this Act or in *The Insurance Act*, where an insurer is being wound up voluntarily, the Superintendent may renew or extend the licence of the insurer for the purposes of its winding up. R.S.O. 1960, c. 71, s. 239.

Extension of  
licence  
R.S.O. 1970,  
c. 224

**257.** The books, accounts and documents of an insurer and the entries in the books of its officers or liquidators are *prima facie* evidence of the matters to which they relate as between an alleged debtor or contributory and the insurer. R.S.O. 1960, c. 71, s. 240.

Books, etc.,  
as evidence

## PART VII

### WINDING UP

**258.** In this Part, “contributory” means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Part. R.S.O. 1960, c. 71, s. 241.

Interpre-  
tation

**259.** Subject to section 2, this Part applies,

Application

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends;
- (c) to every corporation incorporated by or under a general or special Act of this Legislature;
- (d) to every insurer within the meaning of Part VI that is incorporated under or subject to this Act except where inconsistent with Part VI,

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1960, c. 71, s. 242, *amended*.

R.S.O. 1970,  
c. 254

**260.—(1)** Where the shareholders or members of a corporation by a majority of the votes cast at a general meeting called for that purpose pass a resolution requiring the corporation to be wound up, the corporation may be wound up voluntarily.

Voluntary  
winding up

Appoint-  
ment of  
liquidator

(2) At such meeting the shareholders or members shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up. R.S.O. 1960, c. 71, s. 243.

Publica-  
tion of  
notice of  
winding up

**261.**—(1) Notice of a resolution requiring the voluntary winding up of a corporation shall be filed with the Minister and be published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been passed.

Offence

(2) A corporation that fails to comply with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and every director or officer who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 244.

Inspectors

**262.** A corporation being wound up voluntarily may, in general meeting, by resolution, delegate to any committee of its shareholders or members, contributories or creditors hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. R.S.O. 1960, c. 71, s. 245.

Vacancy in  
office of  
liquidator

**263.** If in a voluntary winding up a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders or members in general meeting may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be convened by the continuing liquidator, if any, or by any contributory, and shall be deemed to have been duly held if called in the manner prescribed by the by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders or members of the corporation. R.S.O. 1960, c. 71, s. 246.

Removal of  
liquidator

**264.** The shareholders or members of the corporation may by a majority of the votes cast at a general meeting called for that purpose remove a liquidator appointed under section 260 or 262, and in such case shall appoint another liquidator in his stead. R.S.O. 1960, c. 71, s. 247.

**265.** A voluntary winding up commences at the time of the passing of the resolution requiring the winding up. R.S.O. 1960, c. 71, s. 248. Commencement of winding up

**266.** Where a corporation is being wound up voluntarily, it shall, from the date of the commencement of its winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidator, or alterations in the status of the shareholders or members of the corporation, taking place after the commencement of its winding up, are void, but its corporate existence and all its corporate powers, notwithstanding that it is otherwise provided by its instrument of incorporation or by-laws, continue until its affairs are wound up. R.S.O. 1960, c. 71, s. 249. Corporation to cease business

**267.** After the commencement of a voluntary winding up, No proceedings against corporation after voluntary winding up except by leave

- (a) no action or other proceeding shall be commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court may impose. R.S.O. 1960, c. 71, s. 250.

**268.**—(1) Upon a voluntary winding up, the liquidator shall settle the list of contributories, and any list so settled is *prima facie* evidence of the liability of the persons named therein to be contributories. Settlement of list of contributories

(2) Upon a voluntary winding up, the liquidator may, before he has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any sum that he considers necessary to satisfy the liabilities of the corporation and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and the liquidator may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. R.S.O. 1960, c. 71, s. 251. Payment from contributories

**269.**—(1) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the shareholders or members of the corporation for the purpose of obtaining its sanction by resolution, or for any other purpose he thinks fit. Meetings of corporation during winding up



Where winding up continues more than one year

(2) In the event of a voluntary winding up continuing for more than one year, the liquidator shall call a general meeting of the shareholders or members of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and shall lay before the meeting an account showing his acts and dealings and the manner in which the winding up has been conducted during the preceding year. R.S.O. 1960, c. 71, s. 252.

Arrangements with creditors may be authorized

**270.** The liquidator, with the sanction of a resolution of the shareholders or members of the corporation passed in general meeting or of the inspectors, may make such compromise or other arrangement as the liquidator considers expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, ascertained or sounding only in damages, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1960, c. 71, s. 253.

Power to compromise with debtors and contributories

**271.** The liquidator may, with the like sanction, compromise all calls and liabilities to call, debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person apprehending liability to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed upon, and the liquidator may take any security for the discharge of such calls, debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1960, c. 71, s. 254.

Power to accept shares, etc., as consideration for sale of property to another company

**272.**—(1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and the whole or a portion of its business or property is proposed to be transferred or sold to another corporation, the liquidator of the first-mentioned corporation, with the sanction of a resolution of the shareholders or members passed in general meeting of the corporation by which he was appointed conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part compensation for such transfer or sale, cash or shares or other like interest in the purchasing corporation for the purpose of distribution among the shareholders or members of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing corporation.

(2) A sale made or arrangement entered into by the liquidator under this section is binding on the shareholders or members of the corporation that is being wound up voluntarily if,

Confirmation of sale or arrangement

- (a) in the case of a company, the shareholders or classes of shareholders, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the shares or of each class of shares represented at the meeting; or
- (b) in the case of a corporation without share capital, the members or classes of members, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the members or of each class of members represented at the meeting,

approve the sale or arrangement and if the sale or arrangement is approved by an order made by the court on the application of the corporation.

(3) No resolution shall be deemed invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. R.S.O. 1960, c. 71, s. 255.

Where resolution not invalid

**273.** A corporation may be wound up by order of the court,

Winding up by court

- (a) where the shareholders or members by a majority of the votes cast at a general meeting called for that purpose pass a resolution authorizing an application to be made to the court to wind up the corporation;
- (b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;
- (c) where it is proved to the satisfaction of the court that the corporation, though it may be solvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or
- (d) where in the opinion of the court it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up. R.S.O. 1960, c. 71, s. 256.

**274.—**(1) The winding-up order may be made upon the application of the corporation or of a shareholder or of a member or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$200 or more.

Who may apply

Notice

(2) Except where the application is made by the corporation, four days notice of the application shall be given to the corporation before the making of the application. R.S.O. 1960, c. 71, s. 257.

Power of court

**275.** The court may make the order applied for, may dismiss the application with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as is considered just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up and may also delegate any powers of the court conferred by this Act to any officer of the court. R.S.O. 1960, c. 71, s. 258.

Appointment of liquidator

**276.**—(1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property.

Remuneration

(2) The court may at any time fix the remuneration of the liquidator.

Vacancy

(3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy.

Removal of liquidator

(4) The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint another liquidator in his stead. R.S.O. 1960, c. 71, s. 259.

Costs and expenses

**277.** The costs, charges and expenses of a winding up by order of the court shall be taxed by a taxing officer of the Supreme Court at Toronto. R.S.O. 1960, c. 71, s. 260.

Commencement of winding up

**278.** Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of service of notice of the application, and, where the application is made by the corporation, at the time the application is made. R.S.O. 1960, c. 71, s. 261.

Proceedings in winding up after order

**279.** Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator prior to the winding-up order, in which case the list is subject to review by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. R.S.O. 1960, c. 71, s. 262.

**280.**—(1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders or members of the corporation to be called, held and conducted in such manner as the court deems fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court.

Meetings of members of company may be ordered

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, books, papers, estate or effects that are in his hands and to which the corporation is *prima facie* entitled.

Order for delivery by contributories and others of property, etc.

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the books and papers of the corporation by its creditors and contributories, and any books and papers in the possession of the corporation may be inspected in conformity with such order. R.S.O. 1960, c. 71, s. 263.

Inspection of books

**281.** After the commencement of a winding up by order of the court,

No proceedings against corporation after court winding up except by leave

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court may impose. R.S.O. 1960, c. 71, s. 264.

**282.** Sections 283 to 295 and 298 apply to corporations being wound up voluntarily or by order of the court. R.S.O. 1960, c. 71, s. 265.

Application of ss. 283-295, 298

**283.**—(1) If from any cause there is no liquidator, the court may by order on the application of a shareholder or member of the corporation appoint one or more persons as liquidator.

Where no liquidator

(2) Where there is no liquidator, the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. R.S.O. 1960, c. 71, s. 266.

Idem

**284.**—(1) Upon a winding up,

Consequences of winding up

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its liabilities *pari passu* and, subject thereto, shall distribute the property rateably among the shareholders or members according to their rights and interests in the corporation;



R.S.O. 1970,  
c. 147

- (b) in distributing the property of the corporation, the wages of all clerks, labourers, servants, apprentices and other wage earners in the employment of the corporation due at the date of the commencement of the winding up or within one month before, not exceeding three months wages and for vacation pay accrued for not more than twelve months under *The Employment Standards Act* and the regulations thereunder or under a collective agreement made by the corporation, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;
- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers. R.S.O. 1960, c. 71, s. 267 (1), *amended*.

Distribution  
of property  
R.S.O. 1970,  
c. 470

(2) Section 52 of *The Trustee Act* applies *mutatis mutandis* to liquidators. R.S.O. 1960, c. 71, s. 267 (2).

Payment of  
costs and  
expenses

**285.** The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. R.S.O. 1960, c. 71, s. 268.

Powers of  
liquidators

**286.**—(1) The liquidator may,

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;
- (b) carry on the business of the corporation so far as is necessary for the beneficial winding up of the corporation;
- (c) sell *en bloc* or in parcels the real and personal property, effects and things in action of the corporation by public auction or private sale;
- (d) do all acts and execute, in the name and on behalf of the corporation, all deeds, receipts and other documents, and for that purpose use the seal of the corporation;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in his official name letters of administration to the estate of any deceased contributory and do in his official name any other act that is necessary for obtaining payment of any money due from a contributory or

from his estate and which act cannot be done conveniently in the name of the corporation;

- (h) do and execute all such other things as are necessary for winding up the affairs of the corporation and distributing its property.

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of the corporation has the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business.

Bills of exchange, etc., to be deemed drawn in due course

(3) Where the liquidator takes out letters of administration or otherwise uses his official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling him to take out such letters or recover such money, to be due to the liquidator himself. R.S.O. 1960, c. 71, s. 269.

Where moneys deemed to be due to liquidator

**287.** The liability of a contributory creates a debt accruing due from him at the time his liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. R.S.O. 1960, c. 71, s. 270.

Nature of liability of contributory

**288.** If a contributory dies before or after he has been placed on the list of contributories, his legal representatives are liable in due course of administration to contribute to the property of the corporation in discharge of the liability of such deceased contributory and shall be contributories accordingly. R.S.O. 1960, c. 71, s. 271.

Who liable in case of his death

**289.**—(1) The liquidator shall deposit in a chartered bank in Ontario all sums of money that he has belonging to the corporation if such sums amount to \$100 or more.

Deposit in bank by liquidator

(2) If inspectors have been appointed, the bank shall be one approved by them.

Approval of bank by inspectors

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in his name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only on the joint cheque of the liquidator and one of the inspectors, if any.

Separate deposit account to be kept; withdrawal from account

(4) At every meeting of the shareholders or members of the corporation the liquidator shall produce a pass-book or statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production shall be made in the

Liquidators to produce bank pass-book

minutes of the meeting, and the absence of such mention is admissible in evidence as *prima facie* proof that the pass-book or statement of account was not produced at the meeting.

Idem

(5) The liquidator shall also produce the pass-book or statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder or member of the corporation. R.S.O. 1960, c. 71, s. 272.

Proving  
claim  
R.S.O. 1970,  
c. 34

**290.** For the purpose of proving claims, sections 25, 26 and 27 of *The Assignments and Preferences Act* apply *mutatis mutandis*, except that, where the word "judge" is used therein, the word "court" as used in this Act shall be substituted. R.S.O. 1960, c. 71, s. 273.

Application  
for direction

**291.** Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as it prescribes have been taken, may by order give its direction in any matter arising in the winding up. R.S.O. 1960, c. 71, s. 274.

Examina-  
tion of  
persons as  
to estate

**292.**—(1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director or officer of the corporation or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court considers capable of giving information concerning its trade, dealings, estate or effects.

Damages  
against  
delinquent  
directors,  
etc.

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director or officer, employee, liquidator or receiver of the corporation has misapplied or retained in his own hands, or become liable or accountable for, money of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor or contributory, examine into the conduct of such person and order him to repay the money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the court considers just, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust as the court considers just. R.S.O. 1960, c. 71, s. 275.

Proceedings  
by share-  
holders

**293.**—(1) If a shareholder or member of the corporation desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or members, or of the inspectors, if any, refuses or neglects to take such proceeding after

being required so to do, the shareholder or member may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes.

(2) Thereupon any benefit derived from such proceeding belongs exclusively to the shareholder or member instituting the proceeding for his benefit and that of any other shareholder or member who has joined him in causing the institution of the proceeding.

Benefits,  
when for  
shareholders

(3) If before such order is granted the liquidator signifies to the court his readiness to institute such proceeding for the benefit of the corporation, an order shall be made prescribing the time within which he is to do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the corporation. R.S.O. 1960, c. 71, s. 276.

when for  
corporation

**294.** The rights conferred by this Act are in addition to any other right of instituting proceedings against any contributory, or against any debtor of the corporation, for the recovery of any call or other sum due from such contributory or debtor or his estate. R.S.O. 1960, c. 71, s. 277.

Rights con-  
ferred by  
Act to be  
in addition  
to other  
powers

**295.** At any time during a winding up, the court, upon the application of a shareholder or member or creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court considers fit. R.S.O. 1960, c. 71, s. 278.

Stay of  
winding-up  
proceedings

**296.**—(1) Where the affairs of the corporation have been fully wound up voluntarily, the liquidator shall make up an account showing the manner in which the winding up has been conducted, and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders or members of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner provided by the by-laws for calling general meetings.

Account of  
voluntary  
winding up  
to be made  
by liquidator  
to a general  
meeting

(2) The liquidator shall within ten days after the holding of the meeting file a notice with the Minister stating that the meeting was held and the date thereof.

Notice of  
holding of  
meeting

(3) On the expiration of three months from the date of the filing of the notice, the corporation is *ipso facto* dissolved.

Dissolution



- Extension (4) At any time during the three-month period mentioned in subsection 3, the court may, on the application of the liquidator or any other person interested, make an order deferring the date on which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is *ipso facto* dissolved on the date so fixed.
- Copy of extension order to be filed (5) The person on whose application the order was made shall within ten days after it was made file with the Minister a copy of it certified under the seal of the court.
- Offence (6) A person who fails to comply with any requirement of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 279.
- Order for dissolution **297.**—(1) Notwithstanding section 296, in the case of a voluntary winding up or in the case of a winding up by order of the court, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved at and from the date of the order.
- Copy of dissolution order to be filed (2) The person on whose application the order was made shall within ten days after it was made file with the Minister a copy of it certified under the seal of the court.
- Offence (3) A person who fails to comply with any requirement of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 280.
- Where shareholder unknown **298.**—(1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders or members because a shareholder or member is unknown or his whereabouts is unknown, the share of the property of the corporation of such shareholder or member may, by agreement with the Public Trustee, be delivered or conveyed by the liquidator to the Public Trustee to be held in trust for the shareholder or member, and thereupon subsections 5 and 6 of section 349 apply thereto.
- Idem (2) A delivery or conveyance under subsection 1 shall be deemed to be a rateable distribution among the shareholders or members for the purposes of clause *a* of subsection 1 of section 284.
- Where creditor unknown (3) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or his whereabouts is unknown, the liquidator may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor and thereupon subsections 5 and 6 of section 349 apply thereto.

(4) A payment under subsection 3 shall be deemed to be in satisfaction of the debt for the purposes of clause a of subsection 1 of section 284. R.S.O. 1960, c. 71, s. 281.

**299.**—(1) Where a corporation has been wound up under this Act and is about to be dissolved, its books, accounts and documents and those of the liquidator may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under order.

Disposal of books, etc., after winding up

(2) After the lapse of five years from the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of such books, accounts and documents has been committed by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. R.S.O. 1960, c. 71, s. 282.

Where responsibility as to custody of books, etc., to cease

**300.**—(1) Where a corporation is being wound up under an order of the court and the realization and distribution of its property has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in his hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court may direct, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Provision for discharge of liquidator and distribution by the court

(2) In such case, the court may make an order directing how the books, accounts and documents of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as it thinks fit. R.S.O. 1960, c. 71, s. 283.

Disposal of books and documents

**301.** The Lieutenant Governor in Council may make rules for the due carrying out of this Part, and, except as otherwise provided by this Act or by such rules, the practice and procedure in a winding up under the *Winding-up Act* (Canada) apply. R.S.O. 1960, c. 71, s. 284.

Rules of procedure  
  
R.S.C. 1952, c. 296

PART VIII

CORPORATIONS, GENERAL

**302.** Subject to section 2, this Part, except where it is otherwise expressly provided, applies,

Application

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Upper Canada;

(b) to every corporation incorporated by or under a general or special Act of the Parliament of the late Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and

(c) to every corporation incorporated by or under a general or special Act of the Legislature;

but this Part does not apply to a corporation incorporated for the construction and working of a railway, incline railway or street railway, or to a corporation within the meaning of *The Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1960, c. 71, s. 285.

R.S.O. 1970,  
c. 254

Incorporation subject to trusts

**303.** A corporation is, upon its incorporation, invested with all the property and rights, real and personal, theretofore held by or for it under any trust created with a view to its incorporation. R.S.O. 1960, c. 71, s. 286.

General corporate powers

**304.** A corporation, unless otherwise expressly provided in the Act or instrument creating it, has and shall be deemed to have had from its creation the capacity of a natural person and may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. R.S.O. 1960, c. 71, s. 287.

Incidental powers

**305.** A corporation has power,

(a) to construct, maintain and alter any buildings or works necessary or convenient for its objects;

(b) to acquire by purchase, lease or otherwise and to hold any land or interest therein necessary for its actual use and occupation or for carrying on its undertaking, and, when no longer so necessary, to sell, alienate and convey the same. R.S.O. 1960, c. 71, s. 288.

Restrictions on holding land

**306.**—(1) No corporation and no trustee on its behalf shall acquire or hold any land or interest therein, not necessary for the actual use and occupation of the corporation or for carrying on its undertaking or not held by way of security, for more than seven years after its acquisition if the land was never so necessary or after it has ceased to be so necessary.

Extension of period

(2) The Lieutenant Governor in Council may extend the period of seven years mentioned in subsection 1, but no such extension or extensions shall exceed five years in all.

Statement as to land held

(3) A corporation shall give to the Minister when required a full and correct statement of all land or interest therein at the date of such statement held by or in trust for the corporation. R.S.O. 1960, c. 71, s. 289.

**307.**—(1) Subject to subsection 2, a corporation shall at all times have its head office in the place in Ontario where the letters patent provide that the head office is to be situate.

Head  
office

(2) A corporation may by special resolution change the location of its head office to another place in Ontario. R.S.O. 1960, c. 71, s. 290 (1, 2).

Change of  
head  
office

(3) Where the location of the head office of a corporation is changed by reason only of the annexation or amalgamation of the place in which the head office is situate to or with another municipality, such change does not constitute and has never constituted a change within the meaning of subsection 2. 1964, c. 10, s. 6.

Where  
municipality  
annexed or  
amalgama-  
ted

(4) Notice of the special resolution shall be filed with the Minister and published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been confirmed by the shareholders or members, but the provisions of this subsection as to the filing and publication of the notice are directory only and are not a condition precedent to the validity of the special resolution.

Filing and  
publication

(5) A corporation that fails to comply with subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 290 (3, 4).

Offence

**308.**—(1) Notwithstanding this or any other Act or law, no corporation that has objects in whole or in part of a social nature, other than a corporation commonly known as a service club, shall change the location of any of its premises without the prior consent in writing of the Minister.

Social  
clubs,  
change of  
premises

(2) The giving of the consent mentioned in subsection 1 is in the discretion of the Minister. R.S.O. 1960, c. 71, s. 291.

Idem

**309.** A corporation shall have a seal which shall be adopted and may be altered or changed by by-law. R.S.O. 1960, c. 71, s. 292.

Seal

**310.**—(1) A contract that if made between individual persons would be by law required to be in writing and under seal may be made on behalf of a corporation in writing under the seal of the corporation.

Contracts  
in writing  
under seal

(2) A contract that if made between individual persons would be by law required to be in writing signed by the parties to be charged therewith may be made on behalf of a corporation in writing signed by any person acting under its authority, express or implied.

Contracts  
in writing  
not under  
seal



Parol  
contracts

(3) A contract that if made between individual persons would be by law valid although made by parol only and not reduced into writing may be made by parol on behalf of a corporation by any person acting under its authority, express or implied. R.S.O. 1960, c. 71, s. 293.

Power of  
attorney  
by corpo-  
ration

**311.** A corporation may, by writing under seal, empower any person, either generally or in respect of any specified matters, as its attorney to execute on its behalf deeds to which it is a party in any capacity in any place situate in or outside Ontario, and every deed signed by such attorney on behalf of the corporation and under his seal binds the corporation and has the same effect as if it were under the seal of the corporation. R.S.O. 1960, c. 71, s. 294.

Authentica-  
tion of  
documents,  
etc.

**312.** A document requiring authentication by a corporation may be signed by any director or by any authorized person and need not be under seal. R.S.O. 1960, c. 71, s. 295.

Directors

**313.**—(1) The affairs of every corporation shall be managed by a board of directors howsoever designated.

Number

(2) The board of directors of a corporation shall consist of a fixed number of directors not fewer than three.

Conduct of  
business

(3) Subject to subsection 1 of section 328, no business of a corporation shall be transacted by its directors except at a meeting of directors at which a quorum of the board is present.

Idem

(4) Where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. R.S.O. 1960, c. 71, s. 296.

First  
directors

**314.**—(1) The persons named as first directors in the Act or instrument creating the corporation are the directors of the corporation until replaced by the same number of others duly elected or appointed in their stead.

Idem

(2) The first directors of the corporation have all the powers and duties and are subject to all the liabilities of directors.

Interpre-  
tation

(3) In the case of corporations incorporated before the 30th day of April, 1954, "first directors" in this section means provisional directors. R.S.O. 1960, c. 71, s. 297.

Change in  
number of  
directors

**315.**—(1) A corporation may by special resolution increase or decrease the number of its directors.

Notice of  
special  
resolution

(2) Notice of the special resolution shall be filed with the Minister and published in *The Ontario Gazette* by the corporation within fourteen days after the resolution has been confirmed by the shareholders or members, but the provisions of this subsection

as to the filing and publication of the notice are directory only and are not a condition precedent to the validity of the special resolution.

(3) A corporation that fails to comply with subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200 and every director or officer of the corporation who authorizes, permits or acquiesces in such failure is guilty of an offence and on summary conviction is liable to a like fine. R.S.O. 1960, c. 71, s. 298.

Offence

**316.**—(1) Subject to subsections 2 and 3, no person shall be a director of a corporation unless he is a shareholder or member of the corporation, and, if he ceases to be a shareholder or member, he thereupon ceases to be a director.

Qualifica-  
tion of  
directors,  
must be  
share-  
holders

(2) A person may be a director of a corporation if he becomes a shareholder or member of the corporation within ten days after his election or appointment as a director, but, if he fails to become a shareholder or member within such ten days, he thereupon ceases to be a director and shall not be re-elected or reappointed unless he is a shareholder or member of the corporation. R.S.O. 1960, c. 71, s. 299 (1, 2).

Exception

(3) A corporation,

(a) operating a hospital within the meaning of *The Public Hospitals Act*; or

Exception,  
hospitals  
and stock  
exchanges

(b) operating a recognized stock exchange,

R.S.O. 1970,  
c. 378

may by by-law provide that a person may, with his consent in writing, be a director of the corporation notwithstanding that he is not a shareholder or member of the corporation. 1960-61, c. 13, s. 3.

(4) A director shall be twenty-one or more years of age.

Age

(5) No undischarged bankrupt shall be a director, and, if a director becomes a bankrupt, he thereupon ceases to be a director. R.S.O. 1960, c. 71, s. 299 (4, 5).

Bankrupts

**317.**—(1) The directors shall be elected by the shareholders or members in general meeting and the election shall be by ballot or in such other manner as the by-laws of the corporation prescribe.

Election of  
directors

(2) Unless the letters patent or supplementary letters patent otherwise provide, the election of directors shall take place yearly and all the directors then in office shall retire, but, if qualified, are eligible for re-election.

Idem

(3) Subsection 2 does not affect the operation of any by-law passed before the 30th day of April, 1954, that provides that the election of directors shall take place otherwise than yearly.

Exception

Continu-  
ance in  
office

(4) If an election of directors is not held at the proper time, the directors continue in office until their successors are elected.

Rotation of  
directors

(5) The letters patent or supplementary letters patent may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year.

Idem,  
co-ops

(6) A corporation to which Part V applies may by by-law provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year. R.S.O. 1960, c. 71, s. 300.

Quorum of  
directors

**318.**—(1) Unless the letters patent, supplementary letters patent or a special resolution otherwise provides, a majority of the board of directors constitutes a quorum, but in no case shall a quorum be less than two-fifths of the board of directors.

Vacancies

(2) As long as there is a quorum of directors in office, any vacancy occurring in the board of directors may be filled for the remainder of the term by the directors then in office.

Idem

(3) Whenever there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the shareholders or members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any shareholder or member. R.S.O. 1960, c. 71, s. 301.

President

**319.**—(1) The directors shall elect a president from among themselves.

Other  
officers

(2) The directors shall appoint a secretary and may appoint one or more vice-presidents and other officers. R.S.O. 1960, c. 71, s. 302 (1, 2).

Corporations  
without  
share  
capital

(3) Notwithstanding subsections 1 and 2, in the case of a corporation without share capital, if the letters patent, supplementary letters patent or by-laws so provide, the officers of the corporation or any of them may be elected or appointed at a general meeting of the members duly called for that purpose. 1964, c. 10, s. 7.

Acting  
secretary

(4) If the office of secretary is vacant or if for any reason the secretary is unable to act, anything required or authorized to be done by the secretary may be done by an assistant secretary or, if there is no assistant secretary able to act, by any other officer of the corporation authorized generally or specifically in that behalf by the directors. R.S.O. 1960, c. 71, s. 302 (3).

**320.** A corporation may by special resolution provide for the election by the directors from among themselves of a chairman of the board of directors and define his duties, and may assign to the chairman of the board of directors any or all of the duties of the president or other officer of the corporation, and in that case the special resolution shall fix and prescribe the duties of the president. R.S.O. 1960, c. 71, s. 303.

Chairman of  
the board

**321.**—(1) Except in the case of the president and the chairman of the board of directors, no officer of the corporation need be a director or a shareholder or member of the corporation unless the by-laws so provide. R.S.O. 1960, c. 71, s. 304.

Qualifica-  
tion of  
officers

(2) Subsection 1 does not apply to a corporation operating a recognized stock exchange. 1960-61, c. 13, s. 4.

Application  
of subs. 1

**322.** The acts of a director or of an officer are valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification. R.S.O. 1960, c. 71, s. 305.

Validity of  
acts of  
directors,  
etc.

**323.** A corporation shall hold an annual meeting of its shareholders or members not later than eighteen months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting. R.S.O. 1960, c. 71, s. 306.

Annual  
meetings

**324.** The directors may at any time call a general meeting of the shareholders or members for the transaction of any business, the general nature of which is specified in the notice calling the meeting. R.S.O. 1960, c. 71, s. 307.

General  
meetings

**325.**—(1) Shareholders of a company holding not less than one-tenth of the issued shares of the company that carry the right to vote at the meeting proposed to be held, or not less than one-tenth of the members of a corporation without share capital entitled to vote at the meeting proposed to be held, as the case may be, may request the directors to call a general meeting of the shareholders or members for any purpose connected with the affairs of the corporation that is not inconsistent with this Act.

Requisition  
for meeting

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation and may consist of several documents in like form signed by one or more requisitionists.

Requisition

(3) Upon deposit of the requisition, the directors shall call forthwith a general meeting of the shareholders or members for the transaction of the business stated in the requisition.

Duty of  
directors to  
call meeting



Where  
requisition-  
ists may  
call meeting

(4) If the directors do not within twenty-one days from the date of the deposit of the requisition call and hold such meeting, any of the requisitionists may call such meeting which shall be held within sixty days from the date of the deposit of the requisition.

Calling of  
meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of shareholders or members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of such meeting.

Repayment  
of expenses

(6) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors to call such meeting shall be repaid to the requisitionists by the corporation and any amount so repaid shall be retained by the corporation out of any moneys due or to become due from the corporation by way of fees or other remuneration in respect of their services to such of the directors as were in default, unless at such meeting the shareholders or members by a majority of the votes cast reject the repayment to the requisitionists. R.S.O. 1960, c. 71, s. 308.

Circulation  
of  
shareholders'  
resolutions,  
etc.

**326.**—(1) On the requisition in writing of shareholders of a company holding not less than one-twentieth of the issued shares of the company that carry the right to vote at the meeting to which the requisition relates or not less than one-twentieth of the members of a corporation without share capital entitled to vote at the meeting to which the requisition relates, as the case may be, the directors shall,

- (a) give to the shareholders or members entitled to notice of the next meeting of shareholders or members notice of any resolution that may properly be moved and is intended to be moved at that meeting; or
- (b) circulate to the shareholders or members entitled to vote at the next meeting of shareholders or members a statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution or with respect to the business to be dealt with at that meeting.

Notice

(2) The notice or statement or both, as the case may be, shall be given or circulated by sending a copy thereof to each shareholder or member entitled thereto in the same manner and at the same time as that prescribed by this Act for the sending of notice of meetings of shareholders or members.

Idem

(3) Where it is not practicable to send the notice or statement or both at the same time as the notice of the meeting is sent, the notice or statement or both shall be sent as soon as practicable thereafter.

(4) The directors are not bound under this section to give notice of any resolution or to circulate any statement unless, Deposit of requisition etc.

- (a) the requisition, signed by the requisitionists, is deposited at the head office of the corporation,
  - (i) in the case of a requisition requiring notice of a resolution to be given, not less than ten days before the meeting,
  - (ii) in the case of a requisition requiring a statement to be circulated, not less than seven days before the meeting; and
- (b) there is deposited with the requisition a sum reasonably sufficient to meet the corporation's expenses in giving effect thereto.

(5) The directors are not bound under this section to circulate any statement if, on the application of the corporation or any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter, and on any such application the court may order the costs of the corporation to be paid in whole or in part by the requisitionists notwithstanding that they are not parties to the application. Where directors not bound to circulate statement

(6) A corporation and a director, officer, employee or person acting on its behalf, except a requisitionist, is not liable in damages or otherwise by reason only of the circulation of a notice or statement or both in compliance with this section. Where no liability

(7) Notwithstanding anything in the by-laws of the corporation, where the requisitionists have complied with this section, the resolution, if any, mentioned in the requisition shall be dealt with at the meeting to which the requisition relates. Duty to deal with requisitioned matter

(8) The sum deposited under clause *b* of subsection 4 shall be repaid to the requisitionists by the corporation unless at the meeting to which the requisition relates the shareholders or members by a majority of the votes cast reject the repayment to the requisitionists. Repayment of expenses

(9) A director of a corporation who authorizes, permits or acquiesces in any contravention of any requirement of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 309. Offence

**327.** If for any reason it is impracticable to call a meeting of shareholders or members of the corporation in any manner in which meetings of shareholders or members may be called or to conduct the meeting in the manner prescribed by this Act, the letters patent, supplementary letters patent or by-laws, the court may, on the application of a director or a shareholder or member Court may direct method of holding meetings

who would be entitled to vote at the meeting, order a meeting to be called, held and conducted in such manner as the court thinks fit, and any meeting called, held and conducted in accordance with such an order shall for all purposes be deemed to be a meeting of shareholders or members of the corporation duly called, held and conducted. R.S.O. 1960, c. 71, s. 310.

First-year  
by-laws and  
resolutions

**328.**—(1) Any by-law or resolution signed during a corporation's first year of existence by all the directors is as valid and effective as if passed at a meeting of the directors duly called, constituted and held for that purpose.

Idem

(2) Any resolution signed during the corporation's first year of existence by all the shareholders or members is as valid and effective as if passed at a meeting of the shareholders or members duly called, constituted and held for that purpose.

Alternative  
method of  
confirming  
by-laws

(3) Any by-law passed at any time during a corporation's existence may, in lieu of confirmation at a general meeting, be confirmed in writing by all the shareholders or members entitled to vote at such meeting.

Evidentiary  
value of  
signatures

(4) Where a by-law or resolution purports to have been passed or confirmed under this section by the signatures of all the directors, shareholders or members, as the case may be, of the corporation, the signatures to such by-law or resolution are admissible in evidence as *prima facie* proof of the signatures of all the directors, shareholders or members, as the case may be, and are admissible in evidence as *prima facie* proof that the signatories to the by-law or resolution were all the directors, shareholders or members, as the case may be, at the date that the by-law or resolution purports so to have been passed or confirmed. R.S.O. 1960, c. 71, s. 311.

Minute  
books

**329.**—(1) A corporation shall cause minutes of all proceedings at meetings of the shareholders or members and of the directors and of any executive committee to be entered in books kept for that purpose.

Evidence

(2) Any such minutes, if purporting to be signed by the chairman of the meeting at which the proceedings were had or by the chairman of the next succeeding meeting, are admissible in evidence as *prima facie* proof of the proceedings.

Validity

(3) Where minutes in accordance with this section have been made of the proceedings of a meeting of the shareholders or members or of the directors or any executive committee, then, until the contrary is proved, the meeting shall be deemed to have been duly called, constituted and held and all proceedings had thereat to have been duly had and all appointments of directors, officers or liquidators made thereat shall be deemed to have been duly made. R.S.O. 1960, c. 71, s. 312.

**330.** A corporation shall cause the following documents and registers to be kept: Documents  
and  
registers

1. A copy of the letters patent and of any supplementary letters patent issued to the corporation and of the memorandum of agreement, if any, or, if incorporated by special Act, a copy of the Act.
2. All by-laws and special resolutions of the corporation.
3. A register of shareholders or members in which are set out the names alphabetically arranged of all persons who are shareholders or members or have been within ten years shareholders or members of the corporation and the address of every such person while a shareholder or member and, in the case of a company, in which are set out also the number and class of shares held by each shareholder and the amounts paid up and remaining unpaid on their respective shares.
4. A register of directors in which are set out the names, addresses and callings of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director. R.S.O. 1960, c. 71, s. 313.

**331.** The documents and registers mentioned in sections 42 and 330 are admissible in evidence as *prima facie* proof before and after dissolution of the corporation of all facts purporting to be stated therein. Documents  
*prima facie*  
evidence R.S.O. 1960, c. 71, s. 314.

**332.** A corporation shall cause to be kept proper books of account and accounting records with respect to all financial and other transactions of the corporation and, without derogating from the generality of the foregoing, records of, Books of  
account

- (a) all sums of money received and disbursed by the corporation and the matters with respect to which receipt and disbursement took place;
- (b) all sales and purchases of the corporation;
- (c) the assets and liabilities of the corporation; and
- (d) all other transactions affecting the financial position of the corporation. R.S.O. 1960, c. 71, s. 315.

**333.** A director, officer or employee of a corporation who makes or assists in making any entry in the minutes of proceedings mentioned in section 329, in the documents and registers mentioned in sections 42 and 330 or in the books of account or accounting records mentioned in section 332, knowing it to be untrue, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or both. Untrue  
entries R.S.O. 1960, c. 71, s. 316.



Records to  
be kept at  
head office

**334.**—(1) The minutes of proceedings mentioned in section 329, the documents and registers mentioned in sections 42 and 330 and the books of account and accounting records mentioned in section 332 shall, during the normal business hours of the corporation, be open to inspection by any director and shall, except as provided in section 44 and in subsections 2 and 3 of this section, be kept at the head office of the corporation.

Records of  
account at  
branch

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations and assets and liabilities thereof or to such business of the corporation as was carried on or supervised or accounted for at such place, but there shall be kept at the head office of the corporation or such other place as is authorized under subsection 3 such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation.

Exception

(3) Upon necessity therefor being shown and adequate assurance given that the minutes, documents, registers, books of account and accounting records mentioned in subsection 1 may be inspected by any person entitled thereto at the head office or some other place in Ontario designated by the Minister after application to him for such inspection, he may upon such terms as he sees fit by order permit any corporation to keep such of them at such place or places, other than the head office, as he sees fit.

Offence

(4) A director, officer or employee of a corporation who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

Rescission  
of orders  
made under  
subs. 3

(5) The Minister may by order upon such terms as he sees fit rescind any order made under subsection 3 or any order made by the Lieutenant Governor in Council under a predecessor of that subsection. R.S.O. 1960, c. 71, s. 317.

Records to  
be open for  
inspection

**335.**—(1) The minutes of proceedings at meetings of shareholders or members mentioned in section 329 and the documents and registers mentioned in sections 42 and 330, during the normal business hours of the corporation, shall, at the place or places where they are kept, be open to inspection by the shareholders or members and creditors of the corporation or their agents or legal representatives, and any of them may make extracts therefrom.

Offence

(2) Every person who refuses to permit a person entitled thereto to inspect such minutes, documents or registers, or to make extracts therefrom, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 318.

**336.**—(1) No shareholder or member or creditor or the agent <sup>List of shareholders</sup> or legal representative of any of them shall make or cause to be made a list of all or any of the shareholders or members of the corporation, unless he has filed with the corporation or its agent an affidavit of such shareholder, member or creditor in the following form, and, where the shareholder, member or creditor is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of such corporation:

Form of Affidavit

Province of Ontario	In the matter of
County of	(Insert name of corporation)

I, ....., of the ..... of .....  
in the ..... of .....  
make oath and say:

1. I am a shareholder (*or member or creditor*) of the above-named corporation.  
(Where the shareholder, member or creditor is a corporation, indicate office and authority of deponent in paragraph 1.)
2. I am applying to make a list of the shareholders (*or members*) of the above-named corporation.
3. I require the list of shareholders (*or members*) only for purposes connected with the above-named corporation.
4. The list of shareholders (*or members*) and the information contained therein will be used only for purposes connected with the above-named corporation.

SWORN, etc.

(2) Every person, other than a corporation or its agent, who <sup>Offence</sup> uses a list of all or any of the shareholders or members of the corporation for the purpose of delivering or sending to all or any of such shareholders or members advertising or other printed matter relating to shares or securities, other than the shares or securities of the corporation, or for purposes not connected with the corporation is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

(3) Purposes connected with the corporation include any effort <sup>Purposes connected with the corporation, defined</sup> to influence the voting of shareholders or members at any meeting of the corporation and include the acquisition or offering of shares to acquire control or to effect an amalgamation or reorganization and any other purpose approved by the Minister. R.S.O. 1960, c. 71, s. 319 (1-3).

**337.**—(1) Any person, upon payment of a reasonable charge therefor and upon filing with the corporation or its agent the affidavit referred to in subsection 2, may require a corporation, other than a private company, or its transfer agent <sup>Where list of shareholders to be furnished</sup> to furnish within ten days from the filing of such affidavit a list setting out the names alphabetically arranged of all persons who are shareholders or members of the corporation, the number of shares

owned by each such person and the address of each such person as shown on the books of the corporation made up to a date not more than ten days prior to the date of filing the affidavit.

Affidavit

(2) The affidavit referred to in subsection 1 shall be made by the applicant and shall be in the following form:

Form of Affidavit

Province of Ontario  
County of

In the matter of  
(Insert name of corporation)

I, ....., of the ..... of .....  
in the ..... of .....,  
make oath and say:

(Where the applicant is a corporation, indicate office and  
authority of deponent.)

1. I hereby apply for a list of the shareholders (or members) of the above-named corporation.
2. I require the list of shareholders (or members) only for purposes connected with the above-named corporation.
3. The list of shareholders (or members) and the information contained therein will be used only for purposes connected with the above-named corporation.

SWORN, etc.

Idem, where  
applicant a  
corporation

(3) Where the applicant is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of such corporation.

Offence

(4) Every person who uses a list of shareholders or members of a corporation obtained under this section,

- (a) for the purpose of delivering or sending to all or any of such shareholders or members advertising or other printed matter relating to shares or securities other than the shares or securities of the corporation; or
- (b) for any purpose not connected with the corporation,

is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000.

Offence

(5) Every corporation or transfer agent that fails to furnish a list in accordance with subsection 1 when so required is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, and every director or officer of such corporation or transfer agent who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a like fine.

Interpre-  
tation

(6) Purposes connected with the corporation include any effort to influence the voting of shareholders or members at any meeting of the corporation, any offer to acquire shares in the corporation

or any effort to effect an amalgamation or re-organization and any other purpose approved by the Minister. 1966, c. 28, s. 17, *part.*

**338.** Every person who offers for sale or sells or purchases or otherwise traffics in a list or a copy of a list of all or any of the shareholders or members of a corporation is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000, and, where such person is a corporation, every director or officer of such corporation who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a like fine. 1966, c. 28, s. 17, *part.* Offence

**339.**—(1) If the name of a person is, without sufficient cause, entered in or omitted from the minutes of proceedings mentioned in section 329 or from the documents or registers mentioned in sections 42 and 330, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the corporation, the person or shareholder or member aggrieved, or any shareholder or member of the corporation, or the corporation itself, may apply to the court for an order that the minutes, documents or registers be rectified, and the court may dismiss such application or make an order for the rectification of the minutes, documents or registers, and may direct the corporation to compensate the party aggrieved for any damage he has sustained. Power of court to correct

(2) The court may, in any proceeding under this section, decide any question relating to the entitlement of a person who is a party to such proceeding to have his name entered in or omitted from such minutes, documents or registers, whether such question arises between two or more shareholders or members or alleged shareholders or members, or between any shareholder or member or alleged shareholder or member and the corporation. Decision as to title

(3) The court may direct an issue to be tried. R.S.O. 1960, c. 71, s. 320 (1-3). Trial of issue

(4) An appeal lies from the decision of the court as if it had been given in an action. R.S.O. 1960, c. 71, s. 320 (4). Appeal

(5) This section does not deprive any court of any jurisdiction it otherwise has. Jurisdiction of courts not affected

(6) The costs of any proceeding under this section are in the discretion of the court. R.S.O. 1960, c. 71, s. 320 (5, 6). Costs

**340.**—(1) Upon an application by the shareholders of a company holding shares representing not less than one-tenth of Investigations and audits



the issued capital of the company, or upon an application of at least one-tenth of the members of a corporation without share capital, the court may appoint an inspector to investigate the affairs and management of the corporation or may appoint a person to audit its books.

## Evidence

(2) The application shall be supported by such evidence as the court requires for the purpose of showing that the applicants have good reason for requiring the investigation or audit, as the case may be.

Security  
for costs

(3) The court may require the applicants to give security to cover the probable cost of the investigation or audit and may make rules and prescribe the manner in which and the extent to which the investigation or audit is to be conducted.

Report on  
and expense  
of investiga-  
tion or audit

(4) Such inspector or auditor shall report thereon to the court and the expense of the investigation shall, in the discretion of the court, be defrayed by the corporation or by the applicants or partly by the corporation and partly by the applicants.

Corporation  
may appoint  
inspector  
for same  
purpose

(5) A corporation may, by resolution passed at an annual meeting or at a general meeting called for that purpose, appoint an inspector to investigate its affairs and management.

Powers and  
duties of  
inspector

(6) The inspector appointed under subsection 5 has the same powers and shall perform the same duties as an inspector appointed under subsection 1 and he shall make his report in such manner and to such persons as the corporation by resolution directs.

Production  
of books  
and docu-  
ments

(7) All officers and agents of the corporation shall produce for the examination of any inspector or auditor appointed under this section all books and records in their custody or power.

Examina-  
tion on  
oath

(8) Any such inspector or auditor may examine upon oath the officers, agents and employees of the corporation in relation to its affairs and management.

## Offence

(9) Every officer or agent who refuses to produce any book or record referred to in subsection 7 and every person so examined who refuses to answer any question relating to the affairs and management of the corporation is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

Report  
admissible  
in pro-  
ceedings

(10) A copy of the report of the inspector or auditor, as the case may be, authenticated by the court or under the seal of the corporation whose affairs and management he has investigated, is admissible in any legal proceedings as evidence of the opinion of

the inspector or auditor in relation to any matter contained in the report. R.S.O. 1960, c. 71, s. 321.

**341.**—(1) If a corporation exercises its corporate powers when its shareholders or members are fewer than three for a period of more than six months after the number has been so reduced, every person who was a shareholder or member of the corporation during the time that it so exercised its corporate powers after such period of six months and is aware of the fact that it so exercised its corporate powers is severally liable for the payment of the whole of the debts of the corporation contracted during such time and may be sued for the debts without the joinder in the action of the corporation or of any other shareholder or member.

Corporation with fewer than three shareholders or members exercising corporate powers

(2) A shareholder or member who has become aware that the corporation is so exercising its corporate powers may serve a protest in writing on the corporation and may by registered letter notify the Minister of such protest having been served and of the facts upon which it is based, and such shareholder or member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability.

Shareholder or member may relieve himself from liability

(3) If after notice from the Minister the corporation refuses or neglects to bring the number of its shareholders or members up to three, such refusal or neglect may be regarded by the Lieutenant Governor as sufficient cause for the making of an order under subsection 1 of section 347. R.S.O. 1960, c. 71, s. 322.

Revocation of charter

**342.**—(1) A corporation incorporated otherwise than by letters patent and being at the time of its application a subsisting corporation may apply for letters patent under this Act, and the Lieutenant Governor may issue letters patent continuing it as if it had been incorporated under this Act.

Bringing corporations under this Act

(2) Where a corporation applies for the issue of letters patent under subsection 1, the Lieutenant Governor may, by the letters patent, limit or extend the powers of the corporation, name its directors and change its corporate name, as the applicant desires.

Change of powers, etc.

(3) A corporation incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Lieutenant Governor to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Lieutenant Governor for letters patent continuing it as if it had been incorporated under this Act, and the Lieutenant Governor may issue such letters patent on application supported by such material as appears satisfactory and such letters patent may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the Lieutenant Governor to be fit and proper. R.S.O. 1960, c. 71, s. 323.

Transfer of foreign corporations

Transfer of  
Ontario  
corporations

**343.**—(1) A corporation incorporated under the laws of Ontario may, if authorized by a special resolution, by the Minister and by the laws of any other jurisdiction in Canada, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of that other jurisdiction.

Notice

(2) The corporation shall file with the Minister a notice of the issue of the instrument of continuation and on and after the date of the filing of such instrument this Act ceases to apply to that corporation.

Application

(3) This section applies only to a jurisdiction that has legislation in force that permits corporations incorporated under its laws to apply for an instrument of continuation under the laws of Ontario. 1961-62, c. 21, s. 4.

Rights of  
creditors  
preserved

**344.** All rights of creditors against the property, rights and assets of a corporation amalgamated under section 114 or continued under section 342, and all liens upon its property, rights and assets are unimpaired by such amalgamation or continuation, and all debts, contracts, liabilities and duties of the corporation thenceforth attach to the amalgamated or continued corporation and may be enforced against it. R.S.O. 1960, c. 71, s. 324.

Forfeiture  
for non-user

**345.**—(1) If a corporation heretofore or hereafter incorporated by letters patent did not go or does not go into actual *bona fide* operation within two years after incorporation or for any two consecutive years did not or does not use its corporate powers, the Lieutenant Governor, after having given the corporation such notice as he considers proper, may by order declare such powers forfeited, except so far as is necessary for the winding up of the corporation.

Rights of  
creditors not  
affected

(2) No such forfeiture affects prejudicially the rights of creditors as they exist at the date of the forfeiture.

Revival

(3) Where the powers of a corporation have been forfeited under subsection 1 or a predecessor of subsection 1, the Lieutenant Governor on the application of the corporation may by order, on such terms and conditions as he sees fit to impose, revive the corporate powers. R.S.O. 1960, c. 71, s. 325.

Social clubs  
cause for  
cancellation

**346.** Notwithstanding anything to the contrary in any Act, in any letters patent or in any supplementary letters patent, if it is made to appear to the satisfaction of the Minister that a corporation that has objects in whole or in part of a social nature,

(a) occupies and uses a house, room or place as a club that, except for paragraph *a* of subsection 2 of section 168 of the *Criminal Code* (Canada), would be a common gaming house within the meaning of paragraph *d* of subsection 1 of the said section 168; or

1953-54,  
c. 51 (Can.)

- (b) occupies premises that are equipped, guarded, constructed or operated so as to hinder or prevent lawful access to and inspection by police or fire officers, or are found fitted or provided with any means or contrivance for playing any game of chance or any mixed game of chance and skill, gaming or betting or with any device for concealing, removing or destroying such means or contrivance,

the Lieutenant Governor may make an order under subsection 1 of section 347. 1962-63, c. 24, s. 10.

**347.**—(1) Where sufficient cause is shown, the Lieutenant Governor may by order, upon such terms and conditions as he considers fit, Termination of existence for cause

- (a) cancel the letters patent of a corporation and declare it to be dissolved on such date as the order may fix;
- (b) declare the corporate existence of a corporation incorporated otherwise than by letters patent to be terminated and the corporation to be dissolved on such date as the order may fix; or
- (c) cancel any supplementary letters patent issued to a corporation. R.S.O. 1960, c. 71, s. 326 (1).

(2) The Minister, under such circumstances and at any time as he in his discretion thinks advisable, may authorize any officer of the Department of the Minister to conduct an inquiry for the purpose of determining whether or not there is sufficient cause for the making of an order under subsection 1. Inquiry

(3) Every officer so authorized has the power to summon any person to appear before him as a witness in such inquiry and to require such person to give evidence on oath, touching any matter relevant to the purpose of the inquiry, and to produce such documents and things as such officer considers requisite for that purpose. Powers of inquiring officer

(4) Every such officer has the same power to enforce the attendance of witnesses and to compel them to give evidence and to produce documents and things as is vested in any court in civil cases. Witnesses

(5) Section 9 of *The Evidence Act* applies to any witness and to the evidence given by him before any such officer in any such inquiry. Witness may be required to answer R.S.O. 1970, c. 151

(6) An appeal lies from an order made under subsection 1 to the Supreme Court upon a question of law only. Appeal

(7) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of any such appeal. Minister to be heard



No costs

(8) No costs are payable by or to any person by reason of or in respect of any such appeal. 1962-63, c. 24, s. 11.

Termination  
of existence  
on default  
in filing  
returns  
R.S.O. 1970,  
c. 90

(9) Where it appears that a corporation is in default for a period of one year in filing its annual returns under *The Corporations Information Act* or a predecessor thereof and that notice of such default has been sent by registered mail to each director of record in the office of the Minister to his last address shown on the records of that office and has been published once in *The Ontario Gazette*, the Lieutenant Governor may by order,

- (a) cancel the letters patent of the corporation and declare it to be dissolved on such date as the order may fix; or
- (b) declare the corporate existence of the corporation, if it was incorporated otherwise than by letters patent, to be terminated and the corporation to be dissolved on such date as the order may fix. R.S.O. 1960, c. 71, s. 326 (2); 1964, c. 10, s. 8 (1).

Revival

(10) Where a corporation has been or is dissolved under subsection 9, the Lieutenant Governor, on the application of any interested person made within one year after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation shall, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, be restored to its legal position, including all its property, rights, privileges and franchises, and be subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. R.S.O. 1960, c. 71, s. 326 (3); 1964, c. 10, s. 8 (2).

Continuation  
of existence  
for limited  
period for  
particular  
purpose

**348.** Notwithstanding its dissolution under section 347, a corporation continues in existence,

- (a) for a period of three years after the date of its dissolution for the purpose only of prosecution or defending any action, suit or other proceeding commenced by or against it prior to its dissolution; and
- (b) until such time, beyond the three-year period mentioned in clause a, if necessary, as any decree, order or judgment of a court of competent jurisdiction in any such action, suit or other proceeding is fully executed. 1962-63, c. 24, s. 12.

Surrender  
of charter

**349.—**(1) The charter of a corporation incorporated by letters patent may be surrendered if the corporation proves to the satisfaction of the Lieutenant Governor,

- (a) that the surrender of its charter has been authorized,
  - (i) by a majority of the votes cast at a meeting of its shareholders or members duly called for that purpose or by such other vote as the letters patent or supplementary letters patent of the corporation provide, or
  - (ii) by the consent in writing of all the shareholders or members entitled to vote at such meeting;
- (b) that it has parted with its property by distributing it rateably among its shareholders or members according to their rights and interests in the corporation;
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for or protected or its creditors or other persons having interests in its debts, obligations or liabilities consent;
- (d) that there are no proceedings pending in any court against it; and
- (e) that it has given notice of its intention to surrender its charter by publication once in *The Ontario Gazette* and once in a newspaper published at or as near as may be to the place where it has its head office.

(2) The Lieutenant Governor, upon due compliance with this section, may by order accept the surrender of the charter and declare the corporation to be dissolved on such date as the order may fix.

Acceptance of surrender and dissolution of corporation

(3) When a corporation surrenders its charter and a shareholder or member is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a rateable distribution among the shareholders or members for the purposes of clause *b* of subsection 1.

Where shareholder unknown

(4) When a corporation surrenders its charter and a creditor is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due protection of the debt for the purposes of clause *c* of subsection 1.

Where creditor unknown

(5) If the share of the property so delivered or conveyed to the Public Trustee under subsection 3 is in a form other than money, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into money.

Power to convert

(6) If the share of the property delivered or conveyed under subsection 3 or its equivalent in money, or the amount paid under subsection 4, as the case may be, is claimed by the person

Payment to person entitled

beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him.

Property  
now held by  
Public  
Trustee

(7) Where an order has been made before the 30th day of April, 1954, accepting the surrender of the charter of a corporation and the Public Trustee is holding property of the corporation in trust for its shareholders, members or creditors, subsections 5 and 6 apply to the property so held, except that the ten-year period mentioned in subsection 6 commences on the 30th day of April, 1954. R.S.O. 1960, c. 71, s. 327.

Termination  
of existence  
of corpora-  
tion not  
incorporated  
by letters  
patent

**350.** The corporate existence of a corporation incorporated otherwise than by letters patent may be terminated by order of the Lieutenant Governor upon application therefor by such corporation under like circumstances, in like manner and with like effect as a corporation incorporated by letters patent may surrender its charter. R.S.O. 1960, c. 71, s. 328.

Liability  
of share-  
holders to  
creditors

**351.**—(1) Notwithstanding the dissolution of a corporation, the shareholders or members among whom its property has been distributed remain liable to its creditors to the amount received by them respectively upon such distribution, and an action may be brought within one year from the date of such dissolution in a court of competent jurisdiction to enforce such liability.

Action  
against  
one share-  
holder as  
representing  
class

(2) Where there are numerous shareholders or members, such court may permit an action to be brought against one or more shareholders or members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the Master's office all such shareholders or members as are found and the Master shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined. R.S.O. 1960, c. 71, s. 329.

Forfeiture  
of undis-  
posed  
property

**352.** Any real or personal property of a corporation that has not been disposed of at the date of its dissolution is forfeit to the Crown. R.S.O. 1960, c. 71, s. 330.

Evidence of  
by-laws

**353.** A copy of any by-law of a corporation under its seal and purporting to be signed by an officer of the corporation, or a certificate similarly authenticated to the effect that a person is a shareholder or member of the corporation and that dues or other sums payable are due and have not been paid, or that a call or

assessment that has been made is due and has not been paid, shall be received in all courts as *prima facie* proof of the by-law or of the statements contained in such certificate. R.S.O. 1960, c. 71, s. 331.

**354.**—(1) Subject to the letters patent, supplementary letters patent or by-laws, a notice or demand to be served or made by a corporation upon a shareholder or member may be served or made personally or sent by registered letter addressed to the shareholder or member at his last address as shown on the books of the corporation. Service of notice

(2) Subject to the letters patent, supplementary letters patent or by-laws, a notice or other document served by mail by a corporation on a shareholder or member shall be deemed to be served at the time when it would be delivered in the ordinary course of mail. R.S.O. 1960, c. 71, s. 332. Time of service

**355.** Proof of any matter that is necessary to be made under this Act may be made by certificate. R.S.O. 1960, c. 71, s. 333. Proof of matters under this Act

**356.** A corporation that insures property with or insures the property of other persons, where such insurance is reciprocal and for protection only and not for profit, shall not be deemed to be an insurer or an insurance corporation within the meaning of this Act. R.S.O. 1960, c. 71, s. 334. Reciprocal insurance

**357.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing a tariff of fees to be paid on applications, returns, filings, searches, copies of documents and any other transaction under this Act, and such fees may vary in amount, having regard to the nature of the corporation, the authorized capital or otherwise, as is deemed expedient;
- (b) respecting any matter that he considers requisite for carrying out the objects of this Act, and, without limiting the generality of the foregoing, respecting names of corporations or classes thereof, objects of corporations, authorized capital of companies, the preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares or classes of shares of companies, or any other matter pertaining to letters patent, supplementary letters patent or orders or the applications therefor. R.S.O. 1960, c. 71, s. 335.

**358.** No letters patent and no supplementary letters patent shall be issued and no order shall be made and no document shall Fees to be paid in advance



be accepted for filing under this Act until all fees therefor have been paid. R.S.O. 1960, c. 71, s. 336.

Removal of  
proceedings  
into  
Supreme  
Court

**359.**—(1) Where proceedings under this Act are brought in a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be moved into the Supreme Court.

Transmis-  
sion of  
proceedings

(2) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the proceedings are brought.

Removal of  
proceedings

(3) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings are *ipso facto* removed into the Supreme Court.

Reference  
to Master

(4) Where an application is made to or is removed into the Supreme Court, the court may refer any question to the Master or other officer for inquiry and report. R.S.O. 1960, c. 71, s. 337.

Appeal

**360.** An appeal lies to the Court of Appeal from any order made by a court under this Act. R.S.O. 1960, c. 71, s. 338, *amended*.

Untrue  
state-  
ments

**361.**—(1) Every person who makes or assists in making a statement in any return, certificate, financial statement or other document required by or for the purposes of this Act or the regulations made under this Act, knowing it to be untrue, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both. R.S.O. 1960, c. 71, s. 339; 1962-63, c. 24, s. 13 (1).

Limitation  
of action

(2) No prosecution under subsection 1 shall be commenced more than one year after the facts upon which the prosecution is based first came to the personal knowledge of the Minister or Deputy Minister. 1962-63, c. 24, s. 13 (2).

General  
penalty

**362.** Every corporation that, and every person who, being a director or officer of the corporation, or acting on its behalf, commits any act contrary to any provision of this Act, or fails or neglects to comply with any such provision, is guilty of an offence and on summary conviction, if no penalty for such act, failure or neglect is expressly provided by this Act, is liable to a fine of not more than \$200. R.S.O. 1960, c. 71, s. 340.

**363.** Where a shareholder or member or creditor of a corporation is aggrieved by the failure of the corporation or a director, officer or employee of the corporation to perform any duty imposed upon it or him by this Act, the shareholder, member or creditor, notwithstanding the imposition of any penalty and in addition to any other rights that he may have, may apply to the court for an order directing the corporation, director, officer or employee, as the case may be, to perform such duty, and upon such application the court may make such order or such other order as the court thinks fit. R.S.O. 1960, c. 71, s. 341. Aggrieved shareholders

**364.**—(1) Where it appears to the Commission that any person or company to which section 74, subsection 1 of section 86 or subsection 1 of section 87 applies has failed to comply with or is contravening any such provision, notwithstanding the imposition of any penalty in respect of such non-compliance or contravention, the Commission may apply to a judge of the High Court designated by the Chief Justice of the High Court for an order directing such person or company to comply with such provision or for an order restraining such person or company from contravening such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit. Order for compliance

(2) An appeal lies to the Court of Appeal from an order made under subsection 1. 1968-69, c. 16, s. 10. Appeal

**365.** The Lieutenant Governor in Council may relieve a corporation incorporated before the 30th day of April, 1954, from compliance with any provision of this Act. R.S.O. 1960, c. 71, s. 342. Relief from compliance with Act

## PART IX

### EXTRA-PROVINCIAL CORPORATIONS

**366.** In this Part,

- (a) “extra-provincial corporation” means a corporation incorporated otherwise than by or under the authority of an Act of the Legislature;
- (b) “regulations” means the regulations made under this Part. R.S.O. 1960, c. 71, s. 343.

Interpretation

**367.** Extra-provincial corporations shall be divided into the following classes: Classes of extra-provincial corporations

Class 1. Corporations incorporated by or under the authority of an Act of the Legislature of the late Province of Upper Canada, or by charter of the Government of that Province.

Class 2. Corporations incorporated by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, and carrying on business in Ontario on the 1st day of July, 1900.

Class 3. Corporations that had before the 1st day of July, 1900, received from the Government of Ontario a licence to carry on business in Ontario, or that have been authorized by an Act of the Legislature to carry on business in Ontario while such licence or Act is in force.

R.S.O. 1970,  
cc. 224, 226,  
254

Class 4. Corporations licensed or registered under *The Insurance Act*, *The Investment Contracts Act* or *The Loan and Trust Corporations Act*.

Class 5. Corporations not having gain for any of their objects.

Class 6. Corporations incorporated by or under the authority of an Act of the Parliament of Canada and authorized to carry on business in Ontario.

Class 7. Corporations exempted from this Part by the Lieutenant Governor in Council.

R.S.O. 1970,  
c. 91

Class 8. Corporations within the meaning of sections 8 to 12 of *The Corporations Tax Act*.

R.S.O. 1970,  
c. 249

Class 9. Corporations engaged in the brewery, distillery or wine industry that are licensed under *The Liquor Control Act*.

Class 10. Corporations, other than those mentioned in classes 1 to 9, incorporated by or under the authority of an Act of the Legislature of the late Province of Canada, or by charter of the Government of that Province, authorized to carry on business in Upper Canada, but not carrying on business in Ontario on the 1st day of July, 1900.

Class 11. Corporations not within classes 1 to 10. R.S.O. 1960, c. 71, s. 344.

Reciprocal  
legislation as  
to exemp-  
tion from  
licensing

**368.**—(1) Where it appears that legislation is in force in any other province of Canada exempting corporations incorporated under the law of Ontario from any Act corresponding with this Part, the Lieutenant Governor in Council may exempt corporations incorporated under the law of such other province from this Part.

General  
exempting  
power

(2) Notwithstanding subsection 1, the Lieutenant Governor in Council may exempt any class or classes of extra-provincial corporations from this Part. R.S.O. 1960, c. 71, s. 345.

**369.**—(1) No extra-provincial corporation within class 10 or 11 mentioned in section 367 shall carry on in Ontario any of its business unless a licence under this Part or a predecessor of this Part so to do has been issued to it and unless such licence is in force, and no person, as the representative or agent of or acting in any other capacity for any such extra-provincial corporation, shall carry on any of its business in Ontario unless it has received such licence and unless such licence is in force.

Carrying on  
business  
without  
licence  
prohibited

(2) If an extra-provincial corporation has no resident agent or representative or no office or place of business in Ontario, the taking of orders for or the buying or selling of goods, wares and merchandise by travellers or by correspondence shall not be deemed a carrying on of business within the meaning of this Part. R.S.O. 1960, c. 71, s. 346.

Exception

**370.**—(1) An extra-provincial corporation within class 10 or 11 mentioned in section 367 may apply to the Lieutenant Governor for a licence to carry on its business or part thereof, and to exercise its powers or part thereof, in Ontario.

Application  
for licence

(2) Upon the application for a licence, the applicant shall establish to the satisfaction of the Minister, or such officer as is charged by him to report thereon, that this Part and the regulations have been complied with, and the Minister or such officer may, for that or for any other purpose under this Part, take evidence under oath. R.S.O. 1960, c. 71, s. 347.

Proof to be  
furnished on  
application

**371.** No limitations or conditions shall be included in any such licence that would limit the rights of an extra-provincial corporation within class 10 mentioned in section 367 to carry on in Ontario such part of its business and to exercise in Ontario such part of its powers as by its Act or instrument of incorporation it is authorized to carry on and exercise therein. R.S.O. 1960, c. 71, s. 348.

Conditions  
of licence

**372.** Where an extra-provincial corporation within class 10 mentioned in section 367 complies with this Part and the regulations, the Lieutenant Governor shall issue a licence to it to carry on its business and to exercise its powers in Ontario. R.S.O. 1960, c. 71, s. 349.

Right to  
licence when  
within  
class 10

**373.**—(1) Where an extra-provincial corporation within class 11 mentioned in section 367 complies with this Part and the regulations, the Lieutenant Governor may in his discretion issue a licence to it to carry on the whole or such part of its business and to exercise the whole or such part of its powers in Ontario as is embraced in the licence, subject, however, to such limitations and conditions as are specified therein.

Right to  
licence when  
within  
class 11



Name	(2) A licence shall not be issued to an extra-provincial corporation within class 11 mentioned in section 367 if its name is objectionable. R.S.O. 1960, c. 71, s. 350.
Powers of Minister	<b>374.</b> The Minister may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred on the Lieutenant Governor under this Part. R.S.O. 1960, c. 71, s. 351.
Notice	<b>375.</b> The Minister shall cause notice of the issue of a licence under this Part to be given in <i>The Ontario Gazette</i> , and a copy of the <i>Gazette</i> containing the notice is admissible in evidence as <i>prima facie</i> proof in all proceedings by and against the corporation and otherwise under this Part or otherwise of the issue of the licence and of the terms thereof mentioned in the notice, and a copy of the licence certified by the Minister or his deputy is sufficient evidence of the licence before all courts and tribunals. R.S.O. 1960, c. 71, s. 352.
Power to hold land	<b>376.</b> Every extra-provincial corporation having a licence under this Part or a predecessor of this Part, and every extra-provincial corporation exempted under subsection 1 of section 368 from this Part, has power, subject to its Act or instrument of incorporation, to acquire by purchase, lease or otherwise, to hold, to mortgage, to sell, to alienate and to convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking. R.S.O. 1960, c. 71, s. 353.
Cancellation of licence	<b>377.</b> —(1) Where sufficient cause is shown, the Lieutenant Governor may by order, upon such terms and conditions as he deems fit, cancel any licence issued under this Part or a predecessor of this Part.
Publication of notice	(2) The Minister shall cause notice of the cancellation of a licence under this section to be given in <i>The Ontario Gazette</i> . R.S.O. 1960, c. 71, s. 354.
Offence	<b>378.</b> Any extra-provincial corporation within class 10 or 11 mentioned in section 367 or its representative or agent that carries on in Ontario any part of its business contrary to section 369 is guilty of an offence and on summary conviction is liable to a fine of \$50 for every day upon which it or he so carries on business. R.S.O. 1960, c. 71, s. 355.
Prohibition of actions	<b>379.</b> —(1) So long as an extra-provincial corporation within class 11 mentioned in section 367 is unlicensed, it is not capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in whole or in part in Ontario in the course of or in connection with business carried on contrary to section 369.

(2) Upon the issue or restoration of a licence, or the removal of <sup>Idem</sup> any suspension thereof, such action or other proceeding may be maintained as if the licence had been granted or restored or the suspension had been removed before the institution thereof. R.S.O. 1960, c. 71, s. 356.

**380.** There shall be paid for a licence under this Part such fee <sup>Fees on</sup> as is prescribed by the Lieutenant Governor in Council. R.S.O. <sup>licences</sup> 1960, c. 71, s. 357.

**381.** The Lieutenant Governor in Council may make regula- <sup>Regulations</sup> tions,

- (a) respecting the evidence required upon an application for a licence under this Part as to the incorporation of the corporation, its powers and objects and its existence as a valid and subsisting corporation;
- (b) respecting the appointment and continuance by the corporation of a person as its representative in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;
- (c) respecting the limitations and conditions that may be specified in licences;
- (d) respecting the forms of licences, powers of attorney, applications, notices, statements, returns and other documents relating to applications and other proceedings under this Part;
- (e) prescribing fees for licences under this Part. R.S.O. 1960, c. 71, s. 358.

**382.—**(1) The Minister shall, after the close of each fiscal <sup>Annual</sup> year, prepare an annual report showing the licences issued under <sup>report</sup> this Part during such year, the authorized capital of each corporation licensed and the fee paid for each licence.

(2) The Minister shall submit the report to the Lieutenant <sup>Tabling of</sup> Governor in Council and shall then lay the report before the <sup>report</sup> Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 71, s. 359.

## SCHEDULE

CONVERSION OF JOINT STOCK LIFE COMPANIES INTO  
MUTUAL COMPANIES

Details of  
plan to be  
set forth  
in by-law  
R.S.O. 1970,  
c. 89

1. The terms and provisions of any plan referred to in section 241 of *The Corporations Act* shall be set forth in detail in a by-law made by the directors and confirmed at a special general meeting of the company duly called for the purpose of considering the by-law, and there shall be recorded in the minutes of the meeting the number of votes for and the number of votes against confirmation of the by-law, the votes of shareholders and the votes of policyholders being recorded separately.

Sanction of  
by-law by  
Lieutenant  
Governor in  
Council

2. No such by-law becomes effective until sanctioned by the Lieutenant Governor in Council, and in no case shall any such by-law be sanctioned unless the Lieutenant Governor in Council is satisfied that,

- (a) the conversion of the company into a mutual company may reasonably be expected to be achieved under the terms of the by-law and in accordance with this paragraph;
- (b) the paid-up capital of the company has ceased to be an important factor in safeguarding the interests of the policyholders of the company, having regard to the quality and amount of assets of the company, the surplus of the company relative to its liabilities, the nature of the business carried on by the company and any other considerations deemed by the Lieutenant Governor in Council to be relevant;
- (c) the majority of the votes cast by shareholders and the majority of the votes cast by policyholders at the special general meeting referred to in paragraph 1, whether in person or by proxy, were in favour of confirmation of the by-law;
- (d) the company holds offers from shareholders, in such terms as to preclude the withdrawal thereof prior to notice by the company in accordance with paragraph 13, to sell to the company, at a price fixed by the directors, not less than 25 per cent of all issued and outstanding shares of the capital stock of the company immediately upon the sanction of the by-law by the Lieutenant Governor in Council, or not less than 50 per cent of all issued and outstanding shares of the capital stock of the company within such period, commencing immediately upon the sanction of the by-law by the Lieutenant Governor in Council, as is specified in the by-law;
- (e) the amount required to purchase 25 per cent of the issued and outstanding shares of the capital stock of the company at the price fixed by the directors for the purposes of clause *d* does not exceed the maximum amount, determined in accordance with paragraph 9, that may be applied by the company, immediately upon the sanction of the by-law by the Lieutenant Governor in Council, in payment for shares purchased under the terms of the by-law; and
- (f) the price fixed by the directors for the purposes of clause *d* is fair and reasonable in the circumstances.

Prices to  
be paid for  
shares  
purchased  
under  
by-law

3. Upon the sanction of the by-law by the Lieutenant Governor in Council, the price fixed for the purposes of clause *d* of paragraph 2 shall continue to be the price that may be paid for shares purchased under the terms of the by-law until such price is changed by the directors in accordance with paragraph 4.

Change in  
price, when  
effective

4. The directors may from time to time change the price to be paid for shares purchased under the terms of the by-law, but no such change becomes effective until approved by the Minister on the report of the Superintendent.

Period for  
which price  
to remain  
in effect

5. The price fixed for the purposes of clause *d* of paragraph 2 and any subsequent change in price approved in accordance with paragraph 4 shall remain in effect for a period of not less than six months from the date of sanction of the by-law or the date of approval by the Minister, as the case may be.

6. All shares purchased under the terms of the by-law shall be paid for by the company in full at the time of the purchase thereof, but nothing in this paragraph shall be construed as prohibiting the company from applying, in payment for any shares so purchased, the full amount of the purchase price thereof by promissory note, payable at a fixed or determinable future time not later than ten years from the date of the making thereof and bearing a rate of interest fixed by the directors and approved by the Minister on the report of the Superintendent.

Payment

7. The by-law shall fix a day for the commencement of purchase of shares under the terms of the by-law, which day shall be not sooner than the day following the day the by-law is sanctioned by the Lieutenant Governor in Council.

Date for commencement of purchase of shares

8. Subject to paragraph 9, the company shall purchase all shares offered for sale under the terms of the by-law on the day or days fixed by the terms of the offer in each case for the sale of those shares and at the price in effect on the day the offer was received or the day fixed by the by-law for the purposes of paragraph 7, whichever is the later, except that no such purchase shall be made prior to the day so fixed by the by-law.

Purchase of shares offered for sale

9. Notwithstanding anything in this Schedule, the maximum amount that may be applied by the company at any particular time in payment for shares purchased under the terms of the by-law is the amount by which,

Limitation

- (a) the aggregate of the surplus and general or contingency reserves of the company, after deducting the excess of the book value over the par value of any shares purchased under the terms of the by-law on or before the date as of which the condition and affairs of the company are required to be shown in the most recent annual statement as required by *The Corporations Act*,

R.S.O. 1970, c. 89

exceeds the aggregate of,

- (b) 6 per cent of the total assets of the company, or such lesser percentage of the total assets of the company as may be approved by the Lieutenant Governor in Council, upon application by the company, as safe and reasonable in the circumstances having regard to the bases and methods used in the computation of the policy reserves of the company, the quality of its assets, the nature of the business transacted by the company, the earnings of the company and any other matters deemed by the Lieutenant Governor in Council to be relevant thereto; and
- (c) the total amount applied by the company before that particular time in payment for any shares purchased under the terms of the by-law after the date referred to in clause *a*.

10. For the purposes of paragraph 9, the assets, surplus and general or contingency reserves of the company and the book value of any shares purchased under the terms of the by-law shall be taken as shown in the annual statement referred to in clause *a* of paragraph 9.

Idem

11. Where, by reason of paragraph 9, the company may, at any particular time, purchase some but not all of the shares in respect of which offers for sale at that time have been received, the amount that may be applied by the company at that time in payment for shares purchased under the terms of the by-law shall be applied by the company by apportionment among all of the shares so offered for sale at that time, or any of them, in such manner as is specified in the by-law.

Number of shares to be purchased from each shareholder offering shares

12. The company shall cause a register to be kept in which shall be recorded the offers for sale of shares under the terms of the by-law in the order in which such offers are received by the company, showing, in respect of each such offer,

Register to be kept

- (a) the date of receipt by the company of the offer;
- (b) the name and address of the shareholder making the offer;
- (c) the number of shares so offered by the shareholder making the offer and the day or days fixed by the terms of the offer for the sale of those shares;
- (d) the price at which each of the shares so offered may be purchased;
- (e) the date of purchase, if any, of each of the shares so offered and the number of shares purchased; and



- (f) the date of withdrawal, if any, of the offer and the number of shares affected thereby.

Notice to  
shareholders  
of discon-  
tinuation of  
purchases

13. Where, by reason of paragraph 9, the company is required to discontinue the purchase of shares under the terms of the by-law, the company shall give notice of such discontinuation to each shareholder on the register whose offer for the sale of shares has not been fully taken up by the company, but any such offer as regards shares not so purchased shall continue to be effective and shall maintain its place on the register until withdrawn by the shareholder by notice in writing to the company.

Shares  
purchased:  
general

14. Where the company has purchased any shares of the capital stock of the company under the terms of the by-law,

- (a) the number of policyholders' directors of the company shall at all times thereafter be not less than,
- (i) one-third of the total number of directors, or
  - (ii) that proportion of the total number of directors, as nearly as may be, that the total number of shares purchased under the terms of the by-law is of the total number of shares outstanding immediately prior to the sanction of the by-law by the Lieutenant Governor in Council,

whichever is the greater, except that nothing in this clause shall be held to require an increase in the number of policyholders' directors except as vacancies occur among the shareholders' directors;

- (b) the company shall not thereafter sell any of the shares so purchased, issue any new capital stock or make any calls on shares of the capital stock subscribed;
- (c) any dividends thereafter payable to shareholders shall be at a rate not less than the average rate paid in the three years immediately preceding the sanction of the by-law by the Lieutenant Governor in Council, unless the company establishes to the satisfaction of the Minister that a reduction therein is justified by reason of the earnings and general financial condition of the company; and
- (d) shares purchased under the terms of the by-law rank equally with other shares in the declaration of dividends to shareholders, but any dividends that may be payable in respect of shares so purchased shall be paid by transfer of the applicable amount from the shareholders' account to the insurance funds of the company.

Idem

15. In respect of each share purchased under the terms of the by-law, until the capital stock of the company has been cancelled in accordance with paragraph 20,

R.S.O. 1970,  
c. 89

- (a) the company may include in its assets shown in the annual statement required by *The Corporations Act* an amount not exceeding the purchase price of the share, minus one-fifth of the excess of the purchase price over the par value thereof for each complete year that has elapsed since the date of purchase of the share; and
- (b) the policyholders' directors shall have additional voting rights corresponding to the voting rights that might have been exercised by the holder of the share if he had not sold it, and, unless the by-law otherwise provides, such additional voting rights shall be divided as nearly as may be equally among the policyholders' directors, and the remainder, if any, shall be exercised by such one of the policyholders' directors as is designated for the purpose by resolution of all of the directors.

Notice where  
90 per cent  
or more of  
shares  
acquired by  
company

16. At such time as the company first acquires 90 per cent or more of the shares of its capital stock, it shall notify the Minister and each of the remaining shareholders of the company to that effect, and, for the purposes of this paragraph, notice to any shareholder shall be deemed to have been given by the company if the company has forwarded to him by registered mail, at his address shown in the book or books in which the names of the shareholders of the company are recorded, the notice required by this paragraph.

17. The notice required by paragraph 16 to be given to each of the remaining shareholders of the company shall request each such shareholder to offer his shares for sale forthwith to the company, and shall state therein the substance of paragraph 18. Contents of notice

18. All shares of a shareholder remaining outstanding at the expiration of six months from the date of the notice required by paragraph 16, or at the expiration of such further period as may be required by reason of paragraph 9, shall, upon tender by the company to the shareholder of an amount equal to the price in effect, Acquisition of remaining shares by company

- (a) in the case of shares in respect of which any offer for sale was received by the company prior to the date of the notice, on the day the offer was received; or
- (b) in the case of any other shares, on the date of the notice,

be deemed to have been purchased by the company, and, for the purposes of this paragraph, tender shall be deemed to have been made to a shareholder by the company if made to him in person or by registered mail forwarded to him at his address shown in the book or books referred to in paragraph 16.

19. Where tender of an amount in accordance with paragraph 18 has been made and the amount so tendered has not been accepted, the amount so tendered shall be retained by the company for payment to the person entitled thereto, and until so paid shall be shown on the books of the company as a liability. Amount tendered to be retained for payment

20. Where the company has purchased or is deemed by paragraph 18 to have purchased all of the shares of the capital stock of the company and the shares have been written down in the books of the company to their par value, the capital stock of the company shall thereupon be retired and cancelled by resolution of the board of directors, and the company shall then become a mutual company without capital stock, having for its members the participating policyholders and such other policyholders, if any, as may be authorized by by-law, and the directors shall take all necessary steps to reorganize the affairs of the company accordingly. Retirement and cancellation of capital stock

21. No change in any by-law of a company described in paragraph 1 shall be made after the sanction of the by-law by the Lieutenant Governor in Council, except by a subsequent by-law of the company made by the directors and confirmed at a special general meeting of the company duly called for that purpose, and no such subsequent by-law becomes effective until sanctioned by the Lieutenant Governor in Council. No change in by-law except with sanction of Lieutenant Governor in Council

22. In this Schedule, "Minister" means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of *The Insurance Act*, and "Superintendent" means the Superintendent of Insurance. Interpretation  
R.S.O. 1970,  
c. 224

1962-63, c. 24, s. 14.



## CHAPTER 90

## The Corporations Information Act

## 1. In this Act,

Interpre-  
tation

- (a) “corporation” means a corporation with or without share capital, whether acting as a trustee or not;
- (b) “Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (c) “regulations” means the regulations made under this Act;
- (d) “security” means a security as defined in *The Securities Act*. R.S.O. 1960, c. 72, s. 1; 1968-69, c. 17, s. 1, *amended*. R.S.O. 1970, c. 426

2.—(1) On or before the 1st day of June in each year, without notice or demand to that effect, every corporation incorporated under the law of Ontario and every other corporation having its head or other office or carrying on business or a part thereof in Ontario, unless licensed or registered under *The Insurance Act* or *The Loan and Trust Corporations Act*, or unless of a class exempted by the regulations, shall make out, verify and file with the Minister, together with the prescribed fee, a return stating, as of the 31st day of March next preceding,

Annual  
returnsR.S.O. 1970,  
cc. 224, 254

- (a) its name;
- (b) the jurisdiction under which it was incorporated;
- (c)
  - (i) the manner of its incorporation, whether by special Act, letters patent, registration or otherwise, and
  - (ii) the date of its incorporation;
- (d) whether or not it is carrying on business;
- (e) generally the business that it is actually carrying on;
- (f)
  - (i) the number of directors authorized,
  - (ii) the names and residence addresses, giving street and number, if any, of the persons who are directors, and the date on which each became a director, and
  - (iii) the names and residence addresses, giving street and number, if any, of the persons who have been since the date of the last annual return but who are no longer directors, and the dates on which each became a director and ceased to be a director;



- (g) the names and residence addresses, giving street and number, if any, of its president, secretary, treasurer and manager;
- (h) the location of its head office, giving street and number, if any;
- (i) the date on which its last annual meeting was held; and
- (j) the total amount of its bond or debenture debt authorized, the amount outstanding and the rate of interest,

corporations  
with share  
capital

and, in the case of a corporation with share capital, in addition,

- (k) (i) the particulars of its authorized share capital stating the number and class of shares, with or without par value, or both, and the par value, if any, and
- (ii) the date of its by-law, if any, authorizing the issue of shares as preference shares and stating the number of shares so authorized;
- (l) the number of each class of shares allotted, issued and outstanding and the amount paid thereon;
- (m) (i) the number and class of shares upon which the whole amount has not been called up,
- (ii) the amount called up on each such share, and
- (iii) the total amount of calls unpaid;
- (n) the total number of each class of shares forfeited and the amount paid thereon at the date of forfeiture;
- (o) the number and class of shares, if any, issued since the date of the last annual return, the extent to which the same are paid showing severally the number and class of shares issued for cash, services, commissions or property, and the consideration for which such shares were issued;
- (p) if share warrants are authorized and issued, the number and class of shares represented thereby; and
- (q) the number of preference shares redeemed or purchased for cancellation,

mining cor-  
porations  
R.S.O. 1970,  
c. 89

and, where the corporation is made subject to Part IV of *The Corporations Act* by its letters patent or supplementary letters patent, in addition,

- (r) the number of its shares issued at a discount or premium; and
- (s) the rate at which the shares mentioned in clause *r* were issued,

extra-  
provincial  
corporations

and, where the corporation is an extra-provincial corporation and is licensed to carry on business in Ontario, in addition,

- (t) the name and office address of its attorney for service in Ontario;

- (u) the name and office address of its chief officer or manager in Ontario;
- (v) the location of its principal office in Ontario;
- (w) the estimated amount of capital used in Ontario; and
- (x) in detail, the land in Ontario owned or held by it or on behalf of it. R.S.O. 1960, c. 72, s. 3 (1); 1968-69, c. 17, s. 2 (1), *amended*.

(2) A corporation that holds a licence under Part IX of *The Corporations Act*, or a predecessor of that Part or under *The Mortmain and Charitable Uses Act* shall be deemed to be carrying on business in Ontario for the purposes of subsection 1.

"Carrying on business"  
R.S.O. 1970,  
cc. 89, 280

(3) The return mentioned in subsection 1 shall be verified by the certificate of the president or, in his absence, of a director of the corporation.

Verification

(4) Where the corporation is a private company incorporated under the law of Ontario, in addition to the information required by subsection 1, it shall append to the return mentioned therein a certificate signed by the president or, in his absence, by a director of the company that the company has not, since the date of the last annual return or, in the case of a first annual return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any of its shares or securities, and, where the number of shareholders of the company exceeds fifty, also a certificate so signed that the excess consists wholly of persons who under subclause ii of clause *h* of section 1 of *The Corporations Act*, are excluded in reckoning the number of fifty.

Private  
companies,  
additional  
certificate

(5) The corporation shall post up a duplicate of the return mentioned in subsection 1 with the certificate of verification in a conspicuous position in its head or principal office in Ontario on or before the 2nd day of July in each year, and such duplicate may be inspected by any shareholder or member or creditor of the corporation, and the corporation shall keep the same so posted until the duplicate of another return is posted up in compliance with this Act. R.S.O. 1960, c. 72, s. 3 (2-5).

Posting up

(6) Every corporation to which subsection 1 applies shall file with the Minister a notice of every change in the membership of its board of directors within fifteen days after the change has taken place, and the notice shall specify the date upon which each person became a director or ceased to be a director, as the case may be, and the residence address, giving street and number, if any, of each such person. 1961-62, c. 22, s. 1, *part*; 1962-63, c. 25, s. 1 (1); 1968-69, c. 17, s. 2 (2).

Changes in  
board of  
directors

(7) Where preference shares of a class are redeemed or purchased for cancellation or converted into another class or classes of shares or into securities by a corporation with share capital to

Change in  
authorized  
capital

which subsection 1 applies, the corporation shall, within thirty days of the date on which the redemption, purchase or conversion is effected, file with the Minister a notice setting out,

- (a) the number of shares of the class redeemed or purchased for cancellation or converted;
- (b) the number and class or classes of shares or securities into which the shares were converted; and
- (c) the date on which the redemption, purchase or conversion was effected. 1961-62, c. 22, s. 1, *part*; 1968-69, c. 17, s. 2 (3).

Offence

(8) A corporation that fails to comply with this section is guilty of an offence and on summary conviction is liable to a fine of \$20 for each day of such failure and every director or officer of the corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario who authorizes, permits or acquiesces in any such failure, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

Civil  
penalty

(9) Notwithstanding the imposition of any other penalty under this Act, every corporation that has failed to comply with a predecessor of this section and every corporation that fails to comply with this section is liable to a penalty of \$200 and every director or officer of the corporation and, where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in, or who authorizes, permits or acquiesces in, any such failure is liable to a penalty of \$200, and any such penalty is recoverable in any court of competent jurisdiction by action at the suit of the Crown to be tried by a judge without a jury. R.S.O. 1960, c. 72, s. 3 (6, 7).

Offence

(10) Every person who knowingly makes a statement false in any material particular in a certificate required by subsection 3 is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or both. R.S.O. 1960, c. 72, s. 3 (8); 1962-63, c. 25, s. 1 (3).

Limitation  
upon prose-  
cutions

(11) No prosecution under subsection 10 shall be commenced more than one year after the facts upon which the prosecution is based first come to the personal knowledge of the Minister or Deputy Minister. 1962-63, c. 25, s. 1 (4), *part*; 1968-69, c. 17, s. 2 (4).

Onus of  
proof

(12) In a prosecution under subsection 10, the onus is upon the accused to establish that he did not know that the statement was false or that he had reasonable grounds to believe that the statement was true. 1962-63, c. 25, s. 1 (4), *part*.

(13) Corporations incorporated before the 1st day of July, 1907, under any Act repealed by *The Ontario Companies Act, 1907*, except chapter 191 of the Revised Statutes of Ontario, 1897 and Acts consolidated therewith for which that Act was substituted, shall make such returns under this section as are required from corporations without share capital. R.S.O. 1960, c. 72, s. 3 (9).

Corporations incorporated before July 1st, 1907, etc.  
7 Edw. VII c. 34

(14) A corporation required to file a summary under section 125 of the *Canada Corporations Act* or section 42 of the *Boards of Trade Act* (Canada) may file with the Minister a duplicate of such summary, signed and certified as prescribed in the said section 125 or 42, as the case may be, in lieu of the return required by subsection 1, and shall pay the fee prescribed for such return. 1966, c. 29, s. 2; 1968-69, c. 17, s. 2 (5).

Summary under R.S.C. 1952, cc. 53, 18 in lieu of return

(15) The Minister may in his discretion enlarge the time for filing any such return or summary and may grant an exemption in whole or in part from the payment of the fee. R.S.O. 1960, c. 72, s. 3 (11); 1968-69, c. 17, s. 2 (6).

Enlargement of time and exemption of fee

(16) Notwithstanding that a corporation has delivered or filed the return mentioned in this section or a predecessor of this section, the corporation shall be deemed to be in default in filing such return until the prescribed fee payable on the delivery or filing of such return has been paid. R.S.O. 1960, c. 72, s. 3 (12).

Where default deemed to continue

(17) A certificate purporting to be under the seal of office of the Minister and the hand of the Minister or his deputy that the return mentioned in this section or a predecessor of this section was not delivered or filed as required by this section or a predecessor of this section is admissible in evidence as *prima facie* proof in a prosecution or action under this section that such return was not so filed, without proof of the seal of office of the Minister or of the signature or of the official character of the person appearing to have signed the same. R.S.O. 1960, c. 72, s. 3 (13); 1968-69, c. 17, s. 2 (7).

Proof of default

(18) A certificate purporting to be under the seal of the Minister and under the hand of the Minister or the Deputy Minister that the person named in the certificate on the date or during the period specified in the certificate is shown on the records in the office of the Minister as a director or officer of the corporation named in the certificate is admissible as *prima facie* proof in a prosecution or action under this section that such person is so shown and that such person is or was a director or officer, as the case may be, of such corporation on such date or during such period, without proof of the seal of office of the Minister or of the signature or of the official character of the person appearing to have signed the certificate. 1962-63, c. 25, s. 1 (4), *part*; 1968-69, c. 17, s. 2 (8).

Certificate as proof



Minister  
may require  
returns

**3.** The Minister may at any time by notice require any corporation to make a return upon any subject connected with its affairs within the time specified in the notice, and on default in making such return every director of the corporation, and, where the corporation is an extra-provincial corporation every person acting as its representative in Ontario, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 72, s. 4; 1968-69, c. 17, s. 3.

Regulations

**4.** The Lieutenant Governor in Council may make regulations,

- (a) exempting any class or classes of corporations from filing returns under section 2;
  - (b) prescribing the fees payable on the filing of returns under section 2, which fees may be made to vary in amount having regard to the nature of the corporation, the amount of the authorized capital, or otherwise;
  - (c) notwithstanding subsection 1 of section 2, specifying the information to be contained in the return mentioned therein;
  - (d) notwithstanding subsection 1 of section 2, specifying the date for the filing of the return and the date as of which the information is to be given in the return mentioned therein;
  - (e) notwithstanding subsection 3 of section 2, specifying the persons who may verify and prescribing the method of verifying the return mentioned therein;
  - (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 72, s. 6; 1966, c. 29, s. 4.
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## CHAPTER 91

**The Corporations Tax Act**

## PART I

## INTERPRETATION

**1.—(1)** In this Act,Interpre-  
tation

1. “amount” means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing;
2. “annuity payment” includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year and whether payable under a contract, will or trust or otherwise;
3. “assessment” includes a reassessment;
4. “bank” means a corporation or joint stock company wherever incorporated for the purpose of doing a banking business or the business of a savings bank that transacts such business in Ontario, whether the head office is situate in Ontario or elsewhere;
5. “business” includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and includes an adventure or concern in the nature of trade but does not include office or employment;
6. “common share” is a share the holder of which is not precluded upon the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up thereon plus a fixed premium and a defined rate of dividend;
7. “Comptroller” means the Comptroller of Revenue;
8. “corporation” means a corporation however or wherever incorporated and, where a corporation or the whole or any part of the property thereof is placed in the hands or under the control of an agent, assignee, trustee, liquidator, receiver or other official, includes such agent, assignee, trustee, liquidator, receiver or other official, but does not include a corporation incorporated without share capital;
9. “dividend” does not include a stock dividend;

10. "employed" means performing the duties of an office or employment;
11. "employee" includes officer;
12. "employer", in relation to an officer, means the person from whom the officer receives his remuneration;
13. "employment" means the position of an individual in the service of some other person, including Her Majesty or a foreign state or sovereign, and "servant" or "employee" means a person holding such a position; R.S.O. 1960, c. 73, s. 1 (1), pars. 1-13.
14. "exempt income" means property received or acquired by a corporation in such circumstances that it is, by reason of any provision in Part III, not included in computing its income and includes amounts that are deductible under subsection 1 of section 38; 1961-62, c. 23, s. 1 (1).
15. "farming" includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming; R.S.O. 1960, c. 73, s. 1 (1), par. 15.
16. "fiscal year" means the period for which the accounts of the business of a corporation are ordinarily made up and accepted for purposes of assessment under this Act, and, in the absence of an established practice, the fiscal year is that adopted by a corporation, but no fiscal year may exceed fifty-three weeks and any change in a usual and accepted fiscal year shall be made for the purposes of this Act only with the concurrence of or in accordance with the direction of the Minister; R.S.O. 1960, c. 73, s. 1 (1), par. 16; 1968, c. 20, s. 1 (1).
17. "fishing" includes fishing for or catching shell fish, crustaceans and marine animals, but does not include an office or employment under a person engaged in the business of fishing;
18. "foreign business corporation" means a corporation defined by section 44 to be a foreign business corporation;
19. "gross revenue" means the aggregate of all amounts received or, depending upon the method regularly followed by the corporation in computing its profit, receivable in the fiscal year otherwise than as or on account of capital;

20. “income bond” or “income debenture” means respectively a bond or debenture in respect of which interest or dividends are payable only when the debtor corporation has made a profit before taking into account the interest or dividend obligation on such bond or debenture; R.S.O. 1960, c. 73, s. 1 (1), pars. 17-20.
21. “insurance corporation” or “insurer” means a corporation, with or without share capital, that carries on an insurance business; 1968-69, c. 19, s. 1; 1970, c. 69, s. 1 (1).
22. “inventory” means a description of property the cost or value of which is relevant in computing the income of a corporation from a business for a fiscal year;
23. “jurisdiction” means a province or territory of Canada or a state outside of Canada having sovereign power;
24. “loss” means a loss computed by applying the provisions of this Act respecting the computation of income from a business *mutatis mutandis*, but not including in the computation a dividend or part of a dividend the amount of which would be deductible under subsection 1 of section 38 in computing taxable income, minus any amount by which a loss operated to reduce the income of a corporation from other sources for purposes of tax on income for the fiscal year in which it was sustained; R.S.O. 1960, c. 73, s. 1 (1), pars. 22-24.
25. “Minister” means the Minister of Revenue; 1968, c. 20, s. 1 (5).
26. “non-resident” means not resident in Canada;
27. “non-resident owned investment corporation” means a corporation defined by section 43 to be a non-resident owned investment corporation;
28. “permanent establishment” has the meaning given to that expression by section 3;
29. “personal corporation” means a corporation defined by section 39 to be a personal corporation; R.S.O. 1960, c. 73, s. 1 (1), pars. 25-28.
30. “prescribed”, in the case of a form or the information to be given on a form, means prescribed by order of the Minister and, in any other case, means prescribed by the regulations; R.S.O. 1960, c. 73, s. 1 (1), par. 29; 1968, c. 20, s. 1 (2).
31. “property” means property of any kind whatsoever whether real or personal or corporeal or incorporeal, and



includes every interest or profit, legal or equitable, present or future, vested or contingent in, arising out of or incident to property;

32. "railway" includes a railway and part of a railway operated in whole or in part by steam, electricity or other motive power, constructed and operated on highways or on land owned by the corporation that owns or operates it, or partly on highways and partly on such land, but does not include a street railway constructed or operated in whole or in part upon or along a highway under or by virtue of an agreement with or a by-law of a city or town; R.S.O. 1960, c. 73, s. 1 (1), pars. 30, 31.
33. "registered pension fund or plan" means an employees' superannuation or pension fund or plan accepted for registration by the Minister of National Revenue for purposes of the *Income Tax Act* (Canada) in respect of its constitution and operations for the fiscal year under consideration; 1970, c. 69, s. 1 (2).
34. "regulations" means the regulations made under this Act;
35. "share" means a share of capital stock of a corporation;
36. "shareholder" includes a member or other person entitled to receive payment of a dividend;
37. "a shareholder's portion of undistributed income of a corporation" has the meaning given to that expression by subsection 2 of section 56;
38. "subsidiary controlled corporation" means a corporation more than 50 per cent of the issued share capital of which, having full voting rights under all circumstances, belongs to the corporation to which it is subsidiary;
39. "subsidiary wholly-owned corporation" means a corporation all the issued share capital of which, except directors' qualifying shares, belong to the corporation to which it is subsidiary; R.S.O. 1960, c. 73, s. 1 (1), pars. 33-38.
40. "superannuation or pension benefit" includes any amount received out of or under a superannuation or pension fund or plan, and, without restricting the generality of the foregoing, includes any payment made to a beneficiary under the fund or plan or to an employer or former employer of the beneficiary thereunder,
  - i. in accordance with the terms of the fund or plan,
  - ii. resulting from an amendment to or modification of the fund or plan, or

iii. resulting from the termination of the fund or plan; 1965, c. 22, s. 1.

41. "tax payable" by a corporation under sections 4 to 13 means the tax payable by the corporation as fixed by assessment or reassessment subject to variation on objection or appeal, if any, in accordance with sections 81 to 87, as the case may be;

42. "taxable income" has the meaning given to that expression by section 14;

43. "taxation year" means that fiscal year in relation to which the amount of a tax under this Act is being calculated when the expression is used to distinguish it from another fiscal year; R.S.O. 1960, c. 73, s. 1 (1), pars. 39-41.

44. "undistributed income on hand" has the meaning given to that expression by section 56. R.S.O. 1960, c. 73, s. 1 (1), par. 43.

(2) For the purposes of this Act,

Arm's length

(a) related persons shall be deemed not to deal with each other at arm's length; and

(b) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.

(3) For the purposes of subsections 2 and 5 and this subsection, "related persons", or persons related to each other, are,

Related persons

(a) individuals connected by blood relationship, marriage or adoption;

(b) a corporation, and,

(i) a person who controls the corporation, if it is controlled by one person,

(ii) a person who is a member of a related group that controls the corporation, or

(iii) any person related to a person described by sub-clause i or ii;

(c) any two corporations,

(i) if they are controlled by the same person or group of persons,

(ii) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,

(iii) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,

- (iv) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,
- (v) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or
- (vi) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

Corporations  
related to  
each other

- (4) Where two corporations are related to the same corporation within the meaning of subsection 3, they shall, for the purposes of subsections 2 and 3, be deemed to be related to each other.

Interpre-  
tation

- (5) In subsections 3 and 6 and this subsection,
  - (a) "related group" means a group of persons each member of which is related to every other member of the group; and
  - (b) "unrelated group" means a group of persons that is not a related group. R.S.O. 1960, c. 73, s. 1 (2-5).

Controlled  
by related  
group,  
options, etc.

- (6) For the purpose of subsection 3,
  - (a) where a related group is in a position to control a corporation, it shall be deemed to be a related group that controls the corporation whether or not it is part of a larger group by whom the corporation is in fact controlled;
  - (b) a person who had a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation, or to control the voting rights of shares in a corporation, shall, except where the contract provided that the right is not exercisable until the death of an individual designated therein, be deemed to have had the same position in relation to the control of the corporation as if he owned the shares; and
  - (c) where a person owns shares in two or more corporations, he shall as shareholder of one of the corporations be deemed to be related to himself as shareholder of each of the other corporations. R.S.O. 1960, c. 73, s. 1 (6); 1961-62, c. 23, s. 1 (2).

Persons  
related by  
blood  
relationship,  
etc.

- (7) For the purpose of clause *a* of subsection 3,
  - (a) persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;

- (b) persons are connected by marriage if one is married to the other or to a person who is so connected by blood relationship to the other; and
- (c) persons are connected by adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship, other than as a brother or sister, to the other. R.S.O. 1960, c. 73, s. 1 (7).

**2.—**(1) For the purposes of this Act, a corporation has a degree of Canadian ownership in a fiscal year if throughout any sixty-day period included in the 120-day period commencing sixty days before the first day of the year, 1966, c. 30, s. 1. Where corporation has degree of Canadian ownership

- (a) the corporation complied with the following conditions:

- (i) the corporation was resident in Canada,
- (ii) either,

- (A) not less than 25 per cent of the issued and outstanding shares of the corporation having full voting rights under all circumstances were owned by one or more individuals resident in Canada, one or more corporations controlled in Canada or a combination thereof, and equity shares representing in the aggregate not less than 25 per cent of that part of the paid-up capital of the corporation that was represented by all the issued and outstanding equity shares of the corporation were owned by one or more individuals resident in Canada, one or more corporations controlled in Canada or a combination thereof, or

- (B) a class or classes of shares of the corporation having full voting rights under all circumstances were listed on a prescribed stock exchange in Canada, and it is established in prescribed manner that no one non-resident person and no one corporation that did not comply with sub-subclause A of this subclause owned more than 75 per cent of the issued and outstanding shares of the corporation having full voting rights under all circumstances, alone or in combination with any other person related to such non-resident person or such corporation at any time within the period within the meaning of subsection 3 or 4 of section 1, and a class or classes of equity shares of the corporation representing in the aggregate not less than 50 per cent of that part of the paid-up capital of the corporation that was



represented by all the issued and outstanding equity shares of the corporation were listed on a prescribed stock exchange in Canada, and it is established in prescribed manner that no one non-resident person and no one corporation that did not comply with sub-subclause A of this subclause owned equity shares representing in the aggregate more than 75 per cent of that part of the paid-up capital of the corporation that was represented by all the issued and outstanding equity shares of the corporation, alone or in combination with any other person related to such non-resident person or such corporation at any time within the period within the meaning of subsection 3 or 4 of section 1, and

- (iii) where the fiscal year commences after the 31st day of December, 1964, the number of directors who were resident in Canada was not less than 25 per cent of the total number of directors of the corporation; 1964, c. 11, s. 1, *part*; 1965, c. 22, s. 2 (1, 2), *part*.
- (b) the corporation complied with the conditions specified in subclauses i and iii of clause *a* and was a subsidiary wholly-owned corporation subsidiary to a corporation that throughout the sixty-day period complied with the conditions specified in clause *a* or *c*; or
- (c) the corporation complied with the conditions specified in subclauses i and iii of clause *a* and was a subsidiary-controlled corporation,
  - (i) of which equity shares representing at least 75 per cent of that part of the paid-up capital of the corporation that is represented by all the issued and outstanding equity shares were owned by,
    - (A) the corporation to which it was subsidiary,
    - (B) a corporation controlled in Canada,
    - (C) an individual resident in Canada, or
    - (D) any combination of persons described in sub-subclause A, B or C, and
  - (ii) subsidiary to a corporation that throughout the sixty-day period complied with the conditions specified in clause *a* or *b*. 1965, c. 22, s. 2 (2), *part*.

Idem

(2) For the purposes of this section, 1964, c. 11, s. 1, *part*.

- (a) a corporation that has share capital is not controlled in Canada at a particular time unless at that time the corporation is resident in Canada, and,

- (i) more than 50 per cent of its issued and outstanding shares having full voting rights under all circumstances,
- (ii) shares representing in the aggregate more than 50 per cent of its paid-up capital, and
- (iii) equity shares representing in the aggregate more than 50 per cent of that part of the paid-up capital of the corporation that is represented by all the issued and outstanding equity shares,

are owned by,

- (iv) individuals resident in Canada,
- (v) corporations resident in Canada with respect to each of which,
  - (A) more than 50 per cent of the issued shares having full voting rights under all circumstances,
  - (B) shares representing in the aggregate more than 50 per cent of the paid-up capital, and
  - (C) equity shares representing in the aggregate more than 50 per cent of that part of the paid-up capital of the corporation that is represented by all the issued and outstanding equity shares,

are owned by individuals resident in Canada, or

- (vi) any combination of individuals or corporations described in subclause iv or v;

(b) where,

- (i) a non-resident person,
- (ii) a corporation that does not have a degree of Canadian ownership, or
- (iii) a corporation that is related to a non-resident person within the meaning of subsection 3 or 4 of section 1,

has a right, either as an incident of ownership of a share of a corporation or otherwise under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, equity shares in a corporation, those shares shall,

- (iv) unless the right is contingent upon an event that is not reasonable to expect to occur within a reasonable time, or
- (v) unless the right is such that a reasonable man concerned only with the value of the shares would not exercise it,

be deemed,

- (vi) to be owned by the person who has the right,
- (vii) to be owned by a non-resident person, where the person who has the right is a corporation described in subclause ii or iii, and
- (viii) where the shares are unissued,
  - (A) to be issued and outstanding, and
  - (B) to have a paid-up capital value, with respect to each share, equal to,
    - 1. the par value, where the shares have a par value,
    - 2. the amount that would be paid with respect to each share to exercise the right under the terms of the contract, where the shares have no par value and an amount is specified in the contract, or
    - 3. the market value at the end of the relevant sixty-day period of a share of the class of shares of that corporation that is most closely similar to that share, where the shares have no par value and no amount is specified in the contract,

and any other person who actually owns the shares in respect of which that right exists shall be deemed not to own those shares;

- (c) where shares are owned by a trustee resident in Canada, other than a trustee,
  - (i) who is a trustee under,
    - (A) a registered pension fund or plan,
    - (B) a deferred profit sharing plan,
    - (C) an employees profit sharing plan, or
    - (D) a supplementary unemployment benefit plan,in relation to which at least 75 per cent of the employees covered by the plan are resident in Canada, and
  - (ii) who owns, as trustee, if he is a trustee under a registered pension fund or plan, less than 10 per cent of the issued and outstanding equity shares of a corporation that is an employer of employees covered by the registered pension fund or plan, or a corporation related thereto within the meaning of subsection 3 or 4 of section 1,

the shares shall be deemed not to be owned by a person resident in Canada unless it is established that each beneficiary under the trust is an individual resident in Canada; 1965, c. 22, s. 2 (3).

(d) where, during any relevant sixty-day period referred to in subsection 1, a director of a corporation who is resident in Canada dies and within sixty days thereafter another person who is resident in Canada is appointed or elected to be a director of the corporation, such other person shall be deemed to have become such a director immediately upon the death of the deceased director; 1964, c. 11, s. 1, *part.*

(e) “equity share” means,

(i) a share, other than a non-participating share, the owner of which has, as owner thereof, a right,

(A) to a dividend, and

(B) to a part of the surplus of the corporation after repayment of capital and payment of arrears of dividend, upon the redemption of the share, a reduction of the capital of the corporation or the winding up of the corporation,

at least as great, in any event, as the right of the owner of any other share, other than a non-participating share, of the corporation, when the magnitude of the right in each case is expressed as a rate based on the paid-up capital value of the share to which the right relates, or

(ii) a share, other than a non-participating share, the owner of which has, as owner thereof, a right,

(A) to a dividend, after a dividend at a rate not in excess of 8 per cent per annum of the paid-up capital value of each share has been paid to the owners of shares of a class other than the class to which that share belongs, and

(B) to a part of the surplus of the corporation after repayment of capital and payment of arrears of dividend, upon the redemption of the share, a reduction of the capital of the corporation or the winding up of the corporation, after a payment of a part of the surplus at a rate not in excess of 10 per cent of the paid-up capital value of each share has been made to the owners of shares of a class other than the class to which that share belongs,

at least as great, in any event, as the right of the owner of any other share, other than a non-participating share, of the corporation, when the magnitude of the right in each case is expressed as a rate based on the paid-up capital value of the share to which the right relates;

(f) “non-participating share” means a share the owner of



which is not entitled to receive, as owner thereof, any dividend other than a dividend, whether cumulative or not,

- (i) at a fixed annual rate or amount, or
  - (ii) at an annual rate or amount not in excess of a fixed annual rate or amount;
- (g) “paid-up capital value”, with reference to a share, means,
- (i) in the case of an unissued share that is deemed by clause *b* to be issued and outstanding, the amount determined under sub-subclause B of subclause viii of that clause, and
  - (ii) in any other case, an amount equal to the paid-up capital of the corporation that is represented by the shares of the class to which that share belongs divided by the number of shares of that class that are in fact issued and outstanding; and
- (h) where,
- (i) the paid-up capital of a corporation that is represented by all the issued and outstanding equity shares of the corporation is less than 50 per cent of the paid-up capital of the corporation that is represented by all the issued and outstanding shares of the corporation other than non-participating shares, or
  - (ii) a non-participating share of the corporation, the owner of which has, as owner, a right to a dividend,
    - (A) at a fixed annual rate in excess of 8 per cent, or
    - (B) at an annual rate not in excess of a fixed maximum annual rate, if the fixed maximum annual rate is in excess of 8 per cent,

when the right to the dividend is expressed as a rate based on the paid-up capital value of the share to which the right relates, is issued and outstanding,

the issued and outstanding equity shares of the corporation shall be deemed not to be equity shares. 1965, c. 22, s. 2 (4).

Idem,  
election

(3) Where a corporation so elects, that portion of subsection 1 that precedes clause *a* thereof shall, for the 1963 fiscal year of that corporation, be read as follows:

- (1) For the purposes of this Act, a corporation has a degree of Canadian ownership in a fiscal year if throughout any sixty-day period commencing after the 13th day of June, 1963, and ending before the 1st day of May, 1964,  
1965, c. 22, s. 2 (5).

(4) Where a corporation so elects, that portion of subsection 1 <sup>Idem,</sup> that precedes clause *a* thereof shall, for the 1964 and 1965 fiscal <sup>election</sup> years of that corporation, be read as follows:

- (1) For the purposes of this Act, a corporation has a degree of Canadian ownership in a fiscal year if throughout any sixty-day period commencing after the 13th day of June, 1963, and ending before the 1st day of January, 1965,  
1965, c. 22, s. 2 (6).

**3.**—(1) In this Act, “permanent establishment” includes <sup>Permanent -</sup> branches, mines, oil wells, farms, timberlands, factories, work- <sup>establish-</sup> shops, warehouses, offices, agencies, and other fixed places of <sup>ment</sup> business.

(2) Where a corporation carries on business through an em- <sup>Idem</sup> ployee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which he regularly fills orders that he receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

(3) The fact that a corporation has business dealings through a <sup>Idem</sup> commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

(4) The fact that a corporation has a subsidiary controlled <sup>Idem</sup> corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place. R.S.O. 1960, c. 73, s. 2 (1-4).

(5) An insurance corporation is deemed to have a permanent <sup>Idem</sup> establishment in each jurisdiction in which the corporation is registered or licensed to do business. 1961-62, c. 23, s. 2 (1).

(6) The fact that a corporation maintains an office solely for <sup>Idem</sup> the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office.

(7) Where a corporation, otherwise having a permanent estab- <sup>Idem</sup> lishment in Canada, owns land in a province, such land is a permanent establishment. R.S.O. 1960, c. 73, s. 2 (6-7).

(8) Where a corporation, not otherwise having a permanent <sup>Idem</sup> establishment in Canada, is incorporated under the laws of a jurisdiction outside of Canada, which jurisdiction has not entered into a Tax Convention or Treaty with Canada for the fiscal year, and owns land in a province, such land shall be deemed to be a permanent establishment in the province. 1968, c. 20, s. 2, *part*.

- Idem (9) Where a corporation incorporated under the laws of a jurisdiction outside Canada that has entered into a Tax Convention or Treaty with Canada for the fiscal year has elected to be taxed under Part I of the *Income Tax Act* (Canada) pursuant to section 110 of the *Income Tax Act* (Canada) and owns land in a province or territory but does not otherwise have a permanent establishment in Canada, such land shall be deemed to be a permanent establishment in the province or territory. 1968-69, c. 19, s. 2 (1).
- R.S.C. 1952, c. 148
- Interpretation (10) For the purposes of subsections 7, 8 and 9, a corporation "owns land" if it has a legal, equitable or beneficial interest in the land. 1968, c. 20, s. 2, *part*; 1968-69, c. 19, s. 2 (2).
- Idem (11) The fact that a non-resident corporation in a fiscal year produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada, whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the fiscal year.
- Idem (12) The use of substantial machinery or equipment in a particular place at any time in a fiscal year of a corporation constitutes a permanent establishment of such corporation in that place for the fiscal year. R.S.O. 1960, c. 73, s. 2 (8, 9).
- Idem (13) Where a corporation has no fixed place of business, it has a permanent establishment in the principal place in which the corporation's business is conducted.
- Idem (14) A corporation has a permanent establishment in the place designated in its charter or by-laws as being its head office. 1967, c. 15, s. 1.

## PART II

### LIABILITY FOR TAXES

- Taxes payable 4.—(1) Every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act.
- Fiscal year (2) For the purposes of this Act, where a fiscal year is referred to by a reference to a calendar year, the reference is to the fiscal year or years coinciding with, or ending in, that year.
- Incomplete fiscal year (3) Where a corporation ceases to have a permanent establishment in Ontario during a fiscal year or the existence of a corporation is terminated during a fiscal year, it shall, in respect of such incomplete fiscal year, pay the taxes imposed by this Act in the same manner as though such fiscal year ended on the date

on which it ceased to have a permanent establishment in Ontario or upon which its existence was terminated, as the case may be. R.S.O. 1960, c. 73, s. 3.

**5.**—(1) Except as otherwise provided in this Act, every corporation that has a permanent establishment in Ontario shall, for every fiscal year of the corporation, pay a tax of 12 per cent calculated on its taxable income. Income tax

(2) There may be deducted from the tax otherwise payable by a corporation under this section for a fiscal year an amount equal to 12 per cent of that portion of its taxable income that is earned in the fiscal year in each jurisdiction other than Ontario. 1967, c. 15, s. 2 (1). Deductions from tax on income—allocation of taxable income

(3) Where in a fiscal year a corporation has no permanent establishment outside Ontario, all of its taxable income for the year shall be deemed to have been earned in Ontario. Allocation of taxable income

(4) Where in a fiscal year a corporation had no permanent establishment in Ontario, all of its taxable income for the fiscal year shall be deemed to have been earned in jurisdictions outside Ontario. Idem

(5) Except as otherwise provided, where in a fiscal year a corporation had a permanent establishment in Ontario and a permanent establishment in any other jurisdiction, the amount of its taxable income that shall be deemed to have been earned in the fiscal year in that jurisdiction is one-half the aggregate of, Idem

- (a) that proportion of its taxable income for the fiscal year that the gross revenue for the fiscal year attributable to the permanent establishment in that jurisdiction is of its total gross revenue for the fiscal year; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of the salaries and wages paid in the fiscal year by the corporation to the employees of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation. R.S.O. 1960, c. 73, s. 4 (3-5).

(6) For the purpose of subsection 5 of this section and subsection 7 of section 6, Gross revenue attributable to a permanent establishment

- (a) except as provided in clause *d*, where the destination of a shipment of merchandise to a customer to whom the merchandise is sold is in a jurisdiction in which the corporation making the sale has a permanent establishment, the gross revenue derived therefrom is attributable to that permanent establishment;
- (b) except as provided in clauses *c*, *d* and *e*, where the destination of a shipment of merchandise to a customer to whom the merchandise is sold is in a jurisdiction in which the corporation making the sale has no perma-



ment establishment, the gross revenue derived therefrom is attributable to the permanent establishment to which the person negotiating the sale may reasonably be regarded as being attached;

- (c) except as provided in clause *e*, where the destination of a shipment of merchandise to a customer to whom the merchandise is sold is in a jurisdiction outside Canada in which the corporation making the sale has no permanent establishment,
  - (i) if the merchandise was produced or manufactured, or produced and manufactured, entirely in one province or territory of Canada by the corporation, the gross revenue derived therefrom is attributable to its permanent establishment in that province or territory, or
  - (ii) if the merchandise was produced or manufactured, or produced and manufactured, partly in a province or territory of Canada and partly in another place by the corporation, the gross revenue derived therefrom that is attributable to its permanent establishment in that province or territory is that proportion thereof that the salaries and wages paid in the fiscal year to employees of the permanent establishment in that province or territory where the merchandise was partly produced or manufactured, or partly produced and manufactured, is of the aggregate of the salaries and wages paid in the fiscal year to employees of the permanent establishments where the merchandise was produced or manufactured, or produced and manufactured;
- (d) for the purposes of clauses *a* and *b* and except as provided in clause *e*, where a customer to whom merchandise is sold instructs that shipment thereof be made to another person, the destination of the shipment of the merchandise shall be deemed to be in the jurisdiction in which the permanent establishment of the customer negotiating the purchase of the merchandise is situated;
- (e) for the purpose of clause *c*, where a customer to whom merchandise is sold instructs that shipment be made to another person and the permanent establishment of the customer negotiating the purchase of the merchandise is situated in a jurisdiction outside Canada in which the corporation making the sale has no permanent establishment,
  - (i) if the merchandise was produced or manufactured, or produced and manufactured, entirely in one province or territory of Canada by the corporation, the gross revenue derived therefrom is attributable to its permanent establishment in that province or territory, or

- (ii) if the merchandise was produced or manufactured, or produced and manufactured, partly in a province or territory of Canada and partly in another place by the corporation, the gross revenue derived therefrom that is attributable to its permanent establishment in that province or territory is that proportion thereof that the salaries and wages paid in the fiscal year to employees of the permanent establishment in that province or territory where the merchandise was partly produced or manufactured, or partly produced and manufactured, is of the aggregate of the salaries and wages paid in the fiscal year to employees of the permanent establishments where the merchandise was produced or manufactured, or produced and manufactured;
- (f) where services are performed by a corporation in a jurisdiction in which the corporation has a permanent establishment, the gross revenue derived therefrom is attributable to that permanent establishment;
- (g) where services are performed by a corporation in a jurisdiction in which the corporation has no permanent establishment, the gross revenue derived therefrom is attributable to the permanent establishment to which the person negotiating the contract may reasonably be regarded as being attached;
- (h) where standing timber or the right to cut standing timber is sold, the gross revenue derived therefrom is attributable to the permanent establishment that includes the timberlands on which the timber is standing;
- (i) gross revenue that arises from leasing land owned by the corporation in a province shall be attributable to the province where that land is situated; and
- (j) where land which constitutes a permanent establishment in a province under subsections 7, 8 and 9 of section 3 is sold, and the profit derived therefrom is included in the corporation's income, the gross revenue of the corporation derived from such sales for the fiscal year shall be attributed to that permanent establishment. R.S.O. 1960, c. 73, s. 4 (6); 1961-62, c. 23, s. 3 (1); 1968, c. 20, s. 3 (1); 1968-69, c. 19, s. 3 (1).

(7) For the purpose of subsections 5, 15, 30, 31, 32 and 33 of this section and the corresponding subsections of section 6, where part of the operations of a corporation are conducted jointly or in partnership with one or more other persons, Corporations in partnership with others

- (a) the gross revenue of the corporation for the fiscal year; and
- (b) the salaries and wages paid in the fiscal year by the corporation,

shall include, in respect of those operations, only that proportion of,

- (c) the total gross revenue of the joint operations or partnership for the fiscal year ending in the calendar year; and
- (d) the total salaries and wages paid jointly by the operators or partners in the fiscal year ending in the calendar year,

respectively, that,

- (e) the share of the corporation of the profit or loss for the fiscal year from the joint operations or partnership,

is of,

- (f) the total profit or loss for the fiscal year from the joint operations or partnership. 1961-62, c. 23, s. 3 (2).

Fees to be  
deemed  
salary

(8) For the purposes of subsections 5, 15, 30, 31, 32 and 33 of this section and the corresponding subsections of section 6, where a corporation pays a fee to a person under an agreement pursuant to which the person or employees of that person perform services for the corporation that would normally be performed by employees of the corporation, the fee so paid shall be deemed to be salary paid in the fiscal year by the corporation and that part of the fee that may reasonably be regarded as payment in respect of services rendered at a particular permanent establishment of the corporation shall be deemed to be salary paid to an employee of that permanent establishment.

Exception

(9) For the purpose of subsection 8, a fee does not include a commission paid to a person who is not an employee of the corporation.

Allocation of  
investment  
income

(10) For the purpose of subsection 5 of this section and subsection 7 of section 6, interest on bonds, debentures and mortgages, dividends on shares of capital stock and rentals and royalties for property that is not used in the regular business operations of a corporation shall be excluded when calculating the gross revenue of the corporation or any part thereof. R.S.O. 1960, c. 73, s. 4 (7-9).

Insurance  
corporations,  
allocation of  
taxable  
income

(11) Notwithstanding subsection 5, the proportion of the taxable income of an insurance corporation that is resident in Canada and does not carry on a life insurance business, that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is that proportion of its taxable income for the fiscal year that the aggregate of,

- (a) its net premiums for the year in respect of insurance on properties situated in that jurisdiction; and
- (b) its net premiums for the year in respect of insurance other than on property, from contracts from persons resident in that jurisdiction,

is of the total net premiums for the fiscal year of the corporation. 1968-69, c. 19, s. 3 (2), *part*.

(12) Notwithstanding subsection 5, the proportion of the *Idem* taxable income of an insurance corporation, other than an insurance corporation to which subsection 11 applies, that shall be deemed to have been earned in a fiscal year in a province or territory of Canada, outside Ontario, is that proportion of its taxable income for the fiscal year that the aggregate of,

- (a) its net premiums for the year in respect of insurance on properties situated in that province or territory of Canada, outside Ontario; and
- (b) its net premiums for the year in respect of insurance, other than on property, from contracts from persons resident in that province or territory of Canada, outside Ontario,

is of the total net premiums for the fiscal year in respect of insurance on properties situated in Canada and with respect to contracts with persons resident in Canada that are included in computing its income. 1968-69, c. 19, s. 3 (2), *part*; 1970, c. 69, s. 2 (1).

(13) In subsection 11 and 12, “net premiums” of a corporation for a fiscal year means the aggregate of the gross premiums received by the corporation in the fiscal year, other than consideration received for annuities, minus the aggregate for the fiscal year of, Interpretation

- (a) premiums paid for reinsurance;
- (b) dividends or rebates paid or credited to policyholders; and
- (c) rebates or returned premiums paid in respect of the cancellation of policies,

by the corporation. R.S.O. 1960, c. 73, s. 4 (11); 1968-69, c. 19, s. 3 (3).

(14) In subsections 11 and 12, “total net premiums” of a *Idem* corporation for a fiscal year means the aggregate of,

- (a) its net premium income in respect of insurance on property situate in each province or territory of Canada and each country other than Canada in which the corporation has a permanent establishment; and
- (b) its net premium income in respect of insurance other than on property, from contracts with persons resident in each province or territory of Canada and each country other than Canada in which the corporation has a permanent establishment. R.S.O. 1960, c. 73, s. 4 (12); 1968-69, c. 19, s. 3 (4).



Banks  
allocation of  
taxable  
income

(15) Notwithstanding subsection 5, the amount of taxable income of a bank that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is one-third of the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the aggregate of the salaries and wages paid in the year by the bank to the personnel of its permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the bank; and
- (b) twice that proportion of its taxable income for the fiscal year that the aggregate amount of loans and deposits of its permanent establishments in that jurisdiction for the fiscal year is of the aggregate of all loans and deposits of the bank for the fiscal year.

Idem

(16) For the purpose of subsection 15, the amount of loans for a fiscal year is one-twelfth of the aggregate of the amounts outstanding on the loans made by the bank at the close of business on the last day of each month in the fiscal year.

Idem

(17) For the purpose of subsection 15, the amount of deposits for a fiscal year is one-twelfth of the aggregate of the amounts on deposit with the bank at the close of business on the last day of each month in the fiscal year.

Idem

(18) For the purpose of subsections 16 and 17, loans and deposits do not include bonds, stocks, debentures, items in transit and deposits in favour of Her Majesty in right of Canada.

Trust and  
loan  
corporations,  
allocation of  
taxable  
income

(19) Notwithstanding subsection 5, the amount of taxable income of a trust and loan corporation or a trust corporation or a loan corporation that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is that proportion of its taxable income for the fiscal year that the gross revenue of its permanent establishments in that jurisdiction for the fiscal year is of the total gross revenue for the fiscal year of the corporation.

Interpre-  
tation

(20) For the purpose of subsection 19, the "gross revenue of its permanent establishments in that jurisdiction" for a fiscal year means the aggregate of the gross revenue of the corporation for the fiscal year arising from,

- (a) loans secured by real property situated in that jurisdiction;
- (b) loans not secured by real property to persons residing in that jurisdiction;
- (c) loans administered by the permanent establishments of the corporation in that jurisdiction made to persons residing in another jurisdiction in which the corporation has no permanent establishment but not including loans secured by real property situated in another jurisdiction in which the corporation has a permanent establishment; and

- (d) business conducted at the permanent establishments of the corporation in that jurisdiction, other than revenue in respect of loans.

(21) Notwithstanding subsection 5, the amount of taxable income of a railway corporation that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is, unless subsection 22 applies, one-half the aggregate of,

Railway corporations, allocation of taxable income

- (a) that proportion of its taxable income for the fiscal year that its equated track miles in that province or territory of Canada is of its equated track miles in Canada; and
- (b) that proportion of its taxable income for the fiscal year that its gross ton-miles for the fiscal year in that province or territory of Canada is of its gross ton-miles for the fiscal year in Canada.

(22) Where a corporation to which subsection 21 would apply Idem if this subsection did not apply thereto operates an airline service, operate ships, operates hotels or receives substantial revenues that are petroleum or natural gas royalties, or does a combination of two or more of those things, the amount of its taxable income that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is the aggregate of the amounts computed,

- (a) by applying the provisions of subsection 27 to that part of its taxable income for the fiscal year that might reasonably be considered as having arisen from the operation of the airline service;
- (b) by applying the provisions of subsection 33 to that part of its taxable income for the fiscal year that might reasonably be considered as having arisen from the operation of the ships;
- (c) by applying the provisions of subsection 5 to that part of its taxable income for the fiscal year that might reasonably be considered to have arisen from the operation of the hotels;
- (d) by applying the provisions of subsection 5 to that part of its taxable income for the fiscal year that might reasonably be considered to have arisen from the ownership by the corporation of petroleum or natural gas rights or any interest therein; and
- (e) by applying the provisions of subsection 21 to the remaining portion of its taxable income for the fiscal year.

(23) For the purpose of making an allocation required by Idem clause b of subsection 22, a reference in subsection 33 to “salaries and wages paid in the fiscal year by the corporation to employees”

shall be read as a reference to salaries and wages paid by the corporation to employees employed in the operation of permanent establishments, other than ships, maintained for the shipping business.

Idem

(24) For the purpose of making an allocation required by clause *c* of subsection 22,

- (a) a reference in subsection 5 to “gross revenue for the fiscal year attributable to the permanent establishment in that jurisdiction” shall be read as a reference to the gross revenue of the corporation from operating hotels in a province or territory of Canada outside Ontario;
- (b) a reference in subsection 5 to “total gross revenue for the fiscal year” shall be read as a reference to the total gross revenue of the corporation for the fiscal year from operating hotels; and
- (c) a reference in subsection 5 to “salaries and wages paid in the fiscal year by the corporation to the employees” shall be read as a reference to salaries and wages paid to employees engaged in the operations of its hotels.

Idem

(25) Notwithstanding subsection 10, for the purpose of making an allocation required by clause *d* of subsection 22,

- (a) a reference in subsection 5 to “gross revenue for the fiscal year attributable to the permanent establishment in that jurisdiction” shall be read as a reference to the gross revenue of the corporation from the ownership by the corporation of petroleum and natural gas rights in lands in a province or territory of Canada outside Ontario and any interest therein;
- (b) a reference in subsection 5 to “total gross revenue for the fiscal year” shall be read as a reference to the total gross revenue of the corporation from ownership by the corporation of petroleum and natural gas rights and any interest therein; and
- (c) a reference in subsection 5 to “salaries and wages paid in the fiscal year by the corporation to employees” shall be read as a reference to salaries and wages paid to employees employed in connection with the corporation’s petroleum and natural gas rights and interests therein.

Interpre-  
tation

(26) For the purpose of subsection 21, “the equated track miles” in a specified place means the aggregate of,

- (a) the number of miles of first main track;
- (b) 80 per cent of the number of miles of other main tracks; and

- (c) 50 per cent of the number of miles of yard tracks and sidings,

in that place.

(27) Notwithstanding subsection 5, the amount of taxable income of an airline corporation that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is an amount that is equal to one-quarter of the aggregate of,

Airline corporations, allocation of taxable income

- (a) that proportion of its taxable income for the fiscal year that the capital cost of all fixed assets of the corporation, except aircraft, in that province or territory of Canada at the end of the fiscal year is of the capital cost of all its fixed assets, except aircraft, in Canada at the end of the fiscal year; and
- (b) that proportion of its taxable income that three times the number of revenue plane miles flown by its aircraft in that province or territory of Canada during the fiscal year is of the total number of revenue plane miles flown by its aircraft in Canada during the fiscal year.

(28) For the purpose of subsection 27, "revenue plane miles flown" shall be weighted according to payload capacity of the aircraft operated. R.S.O. 1960, c. 73, s. 4 (13-26).

Interpretation

(29) For the purpose of subsection 28, "payload capacity" of an aircraft means,

Idem

- (a) for a type of aircraft listed in Schedule G to the Regulations made under the *Income Tax Act* (Canada), the number of pounds shown therein for that aircraft; and
- (b) for a type of aircraft not listed in Schedule G to the Regulations made under the *Income Tax Act* (Canada), the average maximum commercial load expressed in pounds of the aircraft with fuel and oil tanks half full as determined by the Minister. 1968-69, c. 19, s. 3 (5).

R.S.C. 1952, c. 148

(30) Notwithstanding subsection 5, the amount of taxable income of a corporation the chief business of which is the operation of grain elevators that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is one-half the aggregate of,

Grain elevator operators, allocation of taxable income

- (a) that proportion of its taxable income for the fiscal year that the number of bushels of grain received in the fiscal year in the elevators operated by the corporation in that jurisdiction is of the total number of bushels of grain received in the fiscal year in all the elevators operated by the corporation; and



- (b) that proportion of its taxable income for the fiscal year that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

Bus and  
truck  
operators,  
allocation  
of taxable  
income

(31) Notwithstanding subsection 5, the amount of taxable income of a corporation the chief business of which is the transportation of goods and passengers, other than by the operation of a railway, steamship or airline service, that shall be deemed to have been earned in a fiscal year in a jurisdiction outside Ontario is one-half of the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the number of miles travelled by its vehicles in that jurisdiction in the fiscal year is of the total number of miles travelled by its vehicles in the fiscal year; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

Pipeline  
operators,  
allocation  
of taxable  
income

(32) Notwithstanding subsection 5, the amount of taxable income of a corporation the chief business of which is the operation of a pipeline for oil, gas or water that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is one-half of the aggregate of,

- (a) that proportion of its taxable income for the fiscal year that the number of miles of pipe of the corporation in that province or territory of Canada is of the number of miles of pipe of the corporation in Canada; and
- (b) that proportion of its taxable income for the fiscal year that the aggregate of the salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that province or territory of Canada is of the aggregate of all salaries and wages paid in all its permanent establishments in Canada in the fiscal year by the corporation.

Navigation  
companies,  
allocation  
of taxable  
income

(33) Notwithstanding subsection 5, the amount of taxable income of a corporation, the chief business of which is the operation of ships, that shall be deemed to have been earned in a fiscal year in a province or territory of Canada outside Ontario is the aggregate of,

- (a) that portion of its allocable income for the fiscal year that the port-call-tonnage in that province or territory of Canada is of the port-call-tonnage in Canada; and

- (b) if its taxable income for the fiscal year exceeds its allocable income for the fiscal year, that portion of the excess that the aggregate of the salaries and wages paid in the fiscal year by the corporation to employees of any permanent establishment, other than a ship, in that province or territory of Canada, is of the aggregate of salaries and wages paid in the fiscal year by the corporation to employees of permanent establishments, other than ships, in Canada.

(34) For the purposes of subsection 33,

Interpretation

- (a) “allocable income for the fiscal year” means that portion of the taxable income of the corporation for the fiscal year that the port-call-tonnage in Canada is of the total port-call-tonnage;
- (b) “port-call-tonnage in Canada” means the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the fiscal year by that ship at ports in Canada by the number of tons of the registered net tonnage of that ship;
- (c) “port-call-tonnage in that province or territory of Canada” means the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the fiscal year by that ship at ports in that province or territory of Canada by the number of tons of registered net tonnage of that ship; and
- (d) “total port-call-tonnage” means the aggregate of the products obtained by multiplying, for each ship operated by the corporation, the number of calls made in the fiscal year by that ship at ports anywhere by the number of tons of the registered net tonnage of that ship. R.S.O. 1960, c. 73, s. 4 (28-32).

(35) Where part of the business of a corporation for a fiscal year, other than a corporation described in subsection 11, 15, 19, 21, 27, 30, 31, 32 or 33, consisted of operations normally conducted by a corporation described in one of those subsections, the corporation and the Minister may agree to determine the amount of taxable income deemed to have been earned in the fiscal year in a jurisdiction outside Ontario as the aggregate of the amounts computed,

Divided businesses, allocation of taxable income

- (a) by applying the provisions of such of those subsections as would have been applicable if it had been a corporation described therein to the portion of its taxable income for the fiscal year that might reasonably be considered to have arisen from that part of the business; and

- (b) by applying the provisions of subsection 5 to the remaining portion of its taxable income for the fiscal year. R.S.O. 1960, c. 73, s. 4 (33); 1968, c. 20, s. 3 (2).

Special  
allocation  
formula

(36) Where a corporation that is incorporated under the laws of a jurisdiction outside Canada and that is not a non-resident owned investment corporation, a foreign business corporation or a corporation to which subsection 27 or 33 applies has a permanent establishment in Ontario, this section applies as though,

R.S.C. 1952,  
c. 148

- (a) the corporation had no permanent establishment outside Canada;
- (b) its taxable income computed under section 31 of the *Income Tax Act* (Canada) was its total taxable income; and
- (c) such total taxable income were allocated among the provinces and territories of Canada in accordance with subsections 5 to 26, subsections 30 to 32 and subsection 35, or such of those subsections as are applicable, on the assumption that the permanent establishments of the corporation in the provinces and territories of Canada are its only permanent establishments and that the amounts and proportions referred to in such of those subsections as are applicable relate exclusively to the activity of the corporation at those permanent establishments,

provided that, where a corporation to which this subsection applies ships merchandise to one or other of its permanent establishments outside Canada,

- (d) such shipment shall be deemed to be a shipment of merchandise to a customer to whom the merchandise is sold; and
- (e) its gross revenue in Canada subject to allocation under subsection 6 shall be the gross revenue of its permanent establishments in Canada including therein such amount as gross revenue from such shipment as is used under section 31 of the *Income Tax Act* (Canada) in determining the amount of income of the corporation reasonably attributable to the business carried on by the corporation in Canada. R.S.O. 1960, c. 73, s. 4 (34); 1968-69, c. 19, s. 3 (6).

Idem

(37) Where a corporation to which subsection 8 of section 3 applies and where it is not liable to taxation by virtue of subsection 2 of section 2 of the *Income Tax Act* (Canada) as measured under section 31 of that Act, owns land in Ontario or owns land in Ontario and other provinces and territories of Canada, this section applies as though,

- (a) the corporation had no permanent establishment outside Canada;

- (b) the taxable income arising from the sale or rental of land in Canada were its total taxable income; and
- (c) such taxable income were allocated among the provinces and territories of Canada in accordance with such of those subsections referred to in clause *c* of subsection 36 as are applicable on the assumption that the permanent establishments of the corporation in the provinces and territories of Canada are its only permanent establishments and that the amounts and proportions referred to in such of those subsections as are applicable relate exclusively to the activity of the corporation at those permanent establishments.

(38) Where a corporation to which subsection 9 of section 3 Idem applies owns land in Ontario or owns land in Ontario and other provinces and territories of Canada, this section applies as though,

- (a) the corporation had no permanent establishment outside Canada;
- (b) the taxable income arising from the sale or rental of land in Canada were its total taxable income; and
- (c) such total taxable income were allocated among the provinces and territories of Canada in accordance with such of those subsections referred to in subsection 36 as are applicable, on the assumption that the permanent establishments of the corporation in the provinces and territories of Canada are its only permanent establishments and that the amounts and proportions referred to in such of those subsections as are applicable relate exclusively to the activity of the corporation at those permanent establishments. 1968-69, c. 19, s. 3 (7).

(39) Where a corporation has a permanent establishment in Ontario and has received income in the fiscal year in the form of dividends, interest, rents or royalties that was derived from sources within a jurisdiction outside Canada or is deemed to have received income in the form of dividends and interest from a country outside Canada by virtue of the provisions of subsection 5 of section 79D of the *Income Tax Act* (Canada), hereinafter in this subsection referred to as “foreign investment income”, or where a corporation having received foreign investment income in the fiscal year from sources within a jurisdiction outside Canada also received income in the fiscal year from a business carried on by it in that jurisdiction, hereinafter in this subsection referred to as “foreign business income”, and where, for the purposes of subsection 1a of section 41 of the *Income Tax Act* (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purposes of subsections 5, 19, 20, 22, 24, 25 and 35, or such of those subsections as are applicable, has been excluded when calculating its gross revenue, or any part

Foreign  
tax credits

R.S.C. 1952,  
c. 148



R.S.C. 1952,  
c. 148

thereof, and where the corporation is entitled to a deduction under section 41 of the *Income Tax Act* (Canada), hereinafter in this subsection referred to as "foreign tax credit", with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of the provisions of subsection 5 of section 79D of the *Income Tax Act* (Canada), the corporation may deduct from the tax otherwise payable under this section an amount equal to the lesser of,

- (a) 10 per cent of that part of such foreign investment income that is included in that portion of taxable income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario measured in accordance with subsections 5 to 36; or
- (b) the proportion of the deficiency between the foreign tax credit that would be allowed if no provincial tax abatement under section 40 of the *Income Tax Act* (Canada) were applicable and the foreign tax credit that is allowed when the provincial tax abatement provided by section 40 of the *Income Tax Act* (Canada) has been applied which,
  - (i) the amount of that portion of its taxable income for the fiscal year that is deemed to have been earned in Ontario measured in accordance with subsection 2 of section 40 of the *Income Tax Act* (Canada),

bears to,

- (ii) the total amount of the portions of its taxable income for the fiscal year that are deemed to have been earned in the provinces of Canada measured in accordance with subsection 2 of section 40 of the *Income Tax Act* (Canada). 1970, c. 69, s. 2 (2).

Logging  
tax credit

(40) There may be deducted from the tax otherwise payable for a fiscal year by a corporation an amount equal to one-third of the tax payable by the corporation for the same fiscal year under *The Logging Tax Act*.

R.S.O. 1970,  
c. 258

Interpre-  
tation

(41) In subsection 40, "tax otherwise payable" means the tax for the fiscal year otherwise payable by the corporation under this section after making any deduction applicable under subsection 2. 1962-63, c. 26, s. 1 (3).

Exemptions:

(42) No tax is payable under this section upon the taxable income of a corporation for a period when that corporation was, 1970, c. 69, s. 2 (3).

municipal  
authorities

- (a) a municipality in Canada, or a municipal or public body performing a function of government in Canada;

- (b) a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by Her Majesty in right of Canada or a province or by a Canadian municipality, or a wholly-owned corporation subsidiary to such a corporation, commission or association, except as provided by section 59; municipal  
or provincial  
corporations
- (c) an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which is payable to or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof; certain  
organiza-  
tions
- (d) a charitable organization, all the resources of which were devoted to charitable activities carried on by the organization itself and no part of the income of which was payable to or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof; R.S.O. 1960, c. 73, s. 4 (37), cls. (a-d). charitable  
organiza-  
tions
- (e) a corporation that was constituted exclusively for charitable purposes, no part of the income of which was payable to or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof, that has not since the 1st day of June, 1950, acquired control of any other corporation and that during the fiscal year,
  - (i) did not carry on any business,
  - (ii) had no debts incurred since the 1st day of June, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and
  - (iii) except in the case of a corporation that was constituted exclusively for charitable purposes before the 1st day of January, 1940, expended amounts each of which is,
    - (A) an expenditure in respect of charitable activities carried on by the corporation itself,
    - (B) a gift to an organization in Canada the income of which for the period is exempt from tax under this section by virtue of clause d,
    - (C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this section by virtue of this clause, or
    - (D) a gift to Her Majesty in right of Canada or a province or to a Canadian municipality,and the aggregate of which is not less than 90 per cent of the income of the corporation for the fiscal year; R.S.O. 1960, c. 73, s. 4 (37), cl. (e); 1961-62, c. 23, s. 3 (3). non-profit  
corporations

non-profit  
corporation  
for  
scientific  
research

(f) a corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not acquired control of any other corporation and that, during the fiscal year,

(i) did not carry on any business, and

(ii) expended amounts in Canada each of which is,

(A) an expenditure on scientific research directly undertaken by or on behalf of the corporation, or

(B) a payment to an association, university, college or research institution, described in subclause ii or iii of clause *a* of subsection 1 of section 46, to be used for scientific research,

and the aggregate of which is not less than 90 per cent of the corporation's income for the fiscal year; 1961-62, c. 23, s. 3 (4).

housing  
for aged

(g) a corporation that was constituted exclusively for the purpose of providing low-cost housing accommodation for the aged, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;

labour  
organiza-  
tions

(h) a labour organization or society or a benevolent or fraternal benefit society or order;

non-profit  
organiza-  
tions

(i) a club, society or association organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, no part of the income of which was payable to or otherwise available for the personal benefit of any proprietor, member or shareholder thereof;

mutual  
insurance  
corporations

(j) a mutual insurance corporation that received its premiums wholly from the insurance of churches, schools or other charitable organizations;

credit  
unions

(k) a corporation incorporated or organized as a credit union or co-operative credit society if,

(i) it was restricted to carrying on business in Ontario and it derived its revenues primarily from,

(A) loans made to or cashing cheques for members residing within Ontario,

(B) bonds of or guaranteed by the government of Canada or Ontario, or

(C) loans made to a co-operative credit society of which it is a member, or

- (ii) the members thereof were corporations or associations,
  - (A) incorporated or organized as credit unions substantially all of which derived their revenues primarily from loans made to members or from bonds of or guaranteed by the government of Canada or Ontario,
  - (B) incorporated, organized or registered under co-operative legislation of Ontario and governed thereby, or
  - (C) incorporated or organized for charitable purposes,
 or were corporations or associations no part of the income of which was payable to or otherwise benefited personally any shareholder or member thereof;
- (l) an institutional housing corporation, an institutional holding company or a limited dividend housing corporation within the meaning of those expressions as defined by the *National Housing Act* (Canada); housing corporations  
R.S.C. 1952, c. 188
- (m) a corporation exempt by section 39 as a personal corporation; personal corporations
- (n) a corporation exempt by section 44 as a foreign business corporation; foreign business corporations
- (o) a corporation exempt by subsection 1 of section 48 as a co-operative corporation; co-operatives R.S.O. 1960, c. 73, s. 4 (37), cls. (f-n).
- (p) a corporation established or incorporated solely in connection with, or for the administration of, a registered pension fund or plan, not less than 90 per cent of the income of which for the period was, pension corporations
  - (i) from sources in Canada,
  - (ii) from bonds, debentures or other securities issued or guaranteed by,
    - (A) the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by subsection 1 of section 2 of the *Bretton Woods Agreements Act*, or R.S.C. 1952, c. 19
    - (B) the Inter-American Development Bank, the income from which securities is payable in Canadian currency, or
- (iii) from sources in Canada and from bonds, debentures or other securities described in subclause ii; 1968, c. 20, s. 3 (3); 1970, c. 69, s. 2 (4).



- idem* (q) in the case of a corporation referred to in clause *p*, less than 90 per cent but not less than 80 per cent of the income of which for its fiscal year commencing in 1960 was from sources in Canada, "90 per cent" in clause *p* shall, in respect of its application to fiscal years of that corporation commencing in 1961 and 1962, be read as "80 per cent";
- idem* (r) in the case of a corporation referred to in clause *p*, less than 80 per cent of the income of which for its fiscal year commencing in 1960 was from sources in Canada, "90 per cent" in clause *p* shall, in respect of its application to the fiscal year of that corporation commencing in 1961, be read as "70 per cent" and, in respect of its application to the fiscal year of that corporation commencing in 1962, be read as "80 per cent"; 1961-62, c. 23, s. 3 (5), *part*.
- farmers' and fishermen's insurers (s) an insurer who was engaged during the fiscal year in no other business than insurance if, in the opinion of the Minister, 50 per cent of the gross premium income for the fiscal year was in respect of the insurance of farm property, property used in fishing, or residences of farmers and fishermen. R.S.O. 1960, c. 73, s. 4 (37), cl. (p); 1968, c. 20, s. 3 (4).
- Subsection 42 not applicable (43) Subsection 42 does not apply in respect of the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business.
- Idem* (44) For the purpose of subsection 43, the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business shall be computed on the assumption that it had no income or loss from any other source. 1968-69, c. 19, s. 3 (8).
- Apportionment rule (45) Where it is necessary for the purpose of subsection 42 to ascertain the taxable income of a corporation for a period that is part of a fiscal year, the taxable income for the period shall be deemed to be the proportion of the taxable income for the fiscal year that the number of days in the period is of the number of days in the fiscal year.
- When deemed not to have acquired control of another corporation (46) For the purpose of clause *e* of subsection 42,
- (a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital, having full voting rights under all circumstances, belongs to,
- (i) the other corporation, or
- (ii) the other corporation and persons with whom the other corporation does not deal at arm's length,
- but a corporation shall be deemed not to have acquired control of another corporation if it has not purchased or

otherwise acquired for a consideration any of the shares in the capital stock of that other corporation;

- (b) there shall be included in computing the income of a gifts corporation all gifts received by the corporation other than,

- (i) a gift received subject to a trust or direction that the property given, or property substituted therefor, is to be held permanently by the corporation for the purpose of gaining or producing income therefrom, or

- (ii) a gift or portion of a gift in respect of which it is established that the donor has not been allowed a deduction under paragraph 1 of subsection 1 of section 37 or a gift made by a person who was not taxable under this section for the fiscal year in which the gift was made. R.S.O. 1960, c. 73, s. 4 (38, 39).

- (47) For the purpose of clause *f* of subsection 42,

Idem

- (a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital having full voting rights under all circumstances belongs to,

- (i) the other corporation, or

- (ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but a corporation shall be deemed not to have acquired control of a corporation if it has not purchased or otherwise acquired for a consideration any of the shares in the capital stock of that corporation; and

- (b) there shall be included in computing a corporation's income all gifts received by the corporation and all amounts contributed to the corporation to be used for scientific research.

- (48) In computing the income of a corporation for the purpose of determining whether it is described by clause *e* or *f* of subsection 42 for a fiscal year,

Rules

- (a) there may be deducted an amount not exceeding its income for the fiscal year preceding the taxation year without including or deducting any amount under this subsection; and

- (b) there shall be included any amount that has been deducted under this subsection for the immediately preceding fiscal year. 1961-62, c. 23, s. 3 (6), *part*.

- (49) For the purpose of determining whether a corporation has complied with the requirements of subclause iii of clause *e* or subclause ii of clause *f* of subsection 42 for its first fiscal year after its incorporation, the whole or any part of amounts expended by it

Election by new charitable corporation

in the immediately subsequent fiscal year shall, if it so elects, be deemed to have been expended by it in the first fiscal year and not in the subsequent fiscal year.

Contributions to or under registered pension fund or plan not included

(50) In computing the income of a corporation for the purpose of determining whether it is a corporation described in clause *p* of subsection 42 for a fiscal year, contributions to or under the fund or plan in connection with which or for the administration of which the corporation was incorporated shall not be included. 1961-62, c. 23, s. 3 (6), *part*.

Rate of general capital tax

**6.**—(1) Except as in this section otherwise provided, every corporation that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay a tax of one-tenth of 1 per cent calculated on its taxable paid-up capital. R.S.O. 1960, c. 73, s. 5 (1); 1968-69, c. 18, s. 1 (1).

Minimum tax

(2) Notwithstanding subsection 4, the tax payable under this section shall in no case be less than \$50 except as provided in subsection 18. 1968-69, c. 18, s. 1 (2).

Exceptions

(3) The tax imposed by this section is not payable by any corporation that is liable to a tax under section 8, 9, 10, 11, 12 or 13. 1968-69, c. 18, s. 1 (3).

Deductions from tax on paid-up capital, allocation of taxable paid-up capital

(4) There may be deducted from the tax otherwise payable by a corporation under this section for a fiscal year an amount equal to one-tenth of 1 per cent of that portion of the taxable paid-up capital which is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario. R.S.O. 1960, c. 73, s. 5 (3); 1968-69, c. 18, s. 1 (4).

Allocation of taxable paid-up capital

(5) Where in a fiscal year a corporation has no permanent establishment outside Ontario, all of its taxable paid-up capital for the fiscal year shall be deemed to have been used in Ontario.

Idem

(6) Where in a fiscal year a corporation has no permanent establishment in Ontario, all of its taxable paid-up capital shall be deemed to have been used in jurisdictions outside Ontario.

Idem

(7) Except as otherwise provided, where in a fiscal year a corporation has a permanent establishment in Ontario and a permanent establishment in any other jurisdiction, the amount of its taxable paid-up capital that shall be deemed to have been used in the fiscal year in that other jurisdiction is one-half the aggregate of,

- (a) that proportion of the taxable paid-up capital that the gross revenue for the fiscal year reasonably attributable to the permanent establishments in that jurisdiction is of its total gross revenue for the fiscal year; and
- (b) that proportion of its taxable paid-up capital that the aggregate of the salaries and wages paid in the fiscal year by the corporation to the employees of the permanent

establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

(8) Notwithstanding subsection 7, the amount of taxable paid-up capital of a trust and loan corporation or a trust corporation or a loan corporation that shall be deemed to have been used in a fiscal year in a jurisdiction outside Ontario is that proportion of its taxable paid-up capital that the gross revenue of its permanent establishments in that jurisdiction for the fiscal year is of the total gross revenue for the fiscal year of the corporation.

Trust and loan corporations, allocation of taxable paid-up capital

(9) For the purpose of subsection 8, the provisions of subsection 20 of section 5 apply *mutatis mutandis*.

Interpretation

(10) Notwithstanding subsection 7, the amount of taxable paid-up capital of a corporation, the chief business of which is the operation of grain elevators, that shall be deemed to have been used in a fiscal year in a jurisdiction outside Ontario is one-half the aggregate of,

Grain elevator operators, allocation of taxable paid-up capital

- (a) that proportion of its taxable paid-up capital that the number of bushels of grain received in the fiscal year in the elevators operated by the corporation in that jurisdiction is of the total number of bushels of grain received in the fiscal year in all the elevators operated by the corporation; and
- (b) that proportion of its taxable paid-up capital that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.

(11) Notwithstanding subsection 7, the amount of taxable paid-up capital of a corporation, the chief business of which is the transportation of goods and passengers, other than by the operation of a railway, steamship or airline service, that shall be deemed to have been used in a fiscal year in a jurisdiction outside Ontario is one-half the aggregate of,

Bus and truck operators, allocation of taxable paid-up capital

- (a) that proportion of its taxable paid-up capital that the number of miles travelled by its vehicles in that jurisdiction in the fiscal year is of the total number of miles travelled by its vehicles in the fiscal year; and
- (b) that proportion of its taxable paid-up capital that the aggregate of salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that jurisdiction is of the aggregate of all salaries and wages paid in the fiscal year by the corporation.



Pipeline  
operators,  
allocation  
of taxable  
paid-up  
capital

(12) Notwithstanding subsection 7, the amount of taxable paid-up capital of a corporation, the chief business of which is the operation of a pipeline for oil, gas or water, that shall be deemed to have been used in a fiscal year in a province or territory of Canada outside Ontario is one-half the aggregate of,

- (a) that proportion of its taxable paid-up capital that the number of miles of pipe of the corporation in that province or territory of Canada is of the number of miles of pipe of the corporation in Canada; and
- (b) that proportion of its taxable paid-up capital that the aggregate of the salaries and wages paid in the fiscal year by the corporation to personnel of the permanent establishments in that province or territory of Canada is of the aggregate of all salaries and wages paid in all its permanent establishments in Canada in the fiscal year by the corporation.

Navigation  
companies,  
allocation  
of taxable  
paid-up  
capital

(13) Notwithstanding subsection 7, the amount of taxable paid-up capital of a corporation, the chief business of which is operating ships, that shall be deemed to have been used in a fiscal year in a province or territory of Canada outside Ontario is the aggregate of,

- (a) that portion of its allocable paid-up capital that the port-call-tonnage in that province or territory of Canada is of the port-call-tonnage in Canada; and
- (b) if its taxable paid-up capital exceeds its allocable paid-up capital, that portion of the excess that the aggregate of the salaries and wages paid in the fiscal year by the corporation to employees of any permanent establishment, other than a ship, in that province or territory of Canada is of the aggregate of salaries and wages paid in the fiscal year by the corporation to employees of permanent establishments, other than ships, in Canada.

Interpre-  
tation

(14) For the purpose of subsection 13, "allocable paid-up capital" means that portion of taxable paid-up capital of the corporation that the port-call-tonnage in Canada is of the total port-call-tonnage and clauses *b*, *c* and *d* of subsection 34 of section 5 apply *mutatis mutandis*.

Idem,  
airlines

(15) Notwithstanding subsection 7, the amount of taxable paid-up capital of an airline corporation that shall be deemed to have been used in the fiscal year in a province or territory of Canada outside Ontario is an amount that is equal to one-quarter of the aggregate of,

- (a) that proportion of its taxable paid-up capital for the fiscal year that the capital cost of all fixed assets of the corporation, except aircraft, in that province or territory of Canada at the end of the fiscal year is of the capital cost of all its fixed assets, except aircraft, in Canada at the end of the fiscal year; and

- (b) that proportion of its taxable paid-up capital that three times the number of revenue plane miles flown by its aircraft in that province or territory of Canada during the fiscal year is of the total number of revenue plane miles flown by its aircraft in Canada during the fiscal year.

(16) For the purposes of subsection 15, the provisions of subsections 28 and 29 of section 5 apply *mutatis mutandis*. Idem  
R.S.O. 1960, c. 73, s. 5 (4-15).

(17) In the case of a corporation to which subsection 36, 37 or 38 of section 5 applies, the paid-up capital thereof shall, notwithstanding section 70, be deemed to be either, Paid-up capital of foreign corporations

- (a) the amount of which its taxable income determined for the purposes of this Act would be 8 per cent; or
- (b) the amount that equals the difference between,
  - (i) the amount of the total assets of the corporation in Canada, and
  - (ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada but excluding therefrom all amounts that are advanced or loaned to its permanent establishments in Canada by the corporation itself or by any other corporation, and all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property in Canada or any of it is subject,

whichever is greater and, in such case, this section shall apply as though,

- (c) the corporation had no permanent establishment outside Canada;
- (d) the paid-up capital as so determined were the total paid-up capital of the corporation; and
- (e) the taxable capital of the corporation as determined for the purposes of this Act were allocated among the provinces and territories of Canada in accordance with such of those subsections referred to in clause *c* of subsection 36 of section 5 as are applicable, on the assumption that the permanent establishments of the corporation in the provinces and territories of Canada are its only permanent establishments and that the amounts and proportions referred to in such of those subsections as are applicable relate exclusively to the activity of the corporation at those permanent establishments. 1968-69, c. 19, s. 4.

Idem (18) Except as provided in section 59, every corporation referred to in clauses *b, c, d, e, f, g, h, i, k, l, p* and *s* of subsection 42 of section 5 shall, in lieu of the taxes payable under subsections 1 and 2, pay a tax of \$5.

Idem (19) Every corporation referred to in clauses *j, m* and *n* of subsection 42 of section 5 and subsection 1 of section 43 shall, in lieu of the tax payable under subsection 1, pay a tax of \$50. 1968-69, c. 18, s. 1 (5).

Apportionment of capital and other special tax

**7.** Where a corporation has a fiscal year of less than 365 days, the tax otherwise payable by it under section 6, 8, 9, 10, 11, or 12 shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply,

- (a) to any corporation to which subsection 2, 18 or 19 of section 6 applies; or
- (b) to any corporation the fiscal year of which does not end on the same date each year, but that has been accepted for purposes of assessment under this Act. 1970, c. 69, s. 3.

Banks, taxes on paid-up capital

**8.—(1)** Every bank shall for every fiscal year thereof pay,

- (a) a tax of one-fifth of 1 per cent on the paid-up capital stock thereof and one-tenth of 1 per cent on the reserve fund and undivided profits thereof;
- (b) an additional tax of \$3,000 for the principal office in Ontario and \$200 for each additional office, branch or agency in Ontario, but in the case of such additional offices, branches and agencies that were open during the fiscal year fewer than 250 days, one tax of \$200 shall apply for each 250 days or fraction thereof that such offices, branches and agencies were open. R.S.O. 1960, c. 73, s. 7 (1).

Reduction in certain cases

(2) Where the head office of a bank is outside Ontario and where it has not more than five offices, branches and agencies in Ontario, the Minister, having regard to the amount of business transacted in Ontario, may reduce the amount of tax imposed by clause *a* of subsection 1, but such tax shall in no case be less than one-tenth of 1 per cent calculated on one-half of the paid-up capital stock. R.S.O. 1960, c. 73, s. 7 (2); 1968, c. 20, s. 6.

Railways, mileage tax

**9.—(1)** Every corporation that operates or uses a railway shall for every fiscal year thereof pay a tax of \$60 per mile for one track, and, where the line consists of two or more tracks, of \$40 per mile for each additional track, operated or used in any municipality in Ontario, and of \$40 per mile for one track, and, where the line consists of two or more tracks, of \$20 per mile for each additional

track, in territory without municipal organization in Ontario, but a corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, does not exceed 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall, in lieu of such tax, pay a tax of \$15 per mile for one track in Ontario and, where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario, and, where the railway or system does not exceed thirty miles in length between such terminals, a tax of \$10 per mile for one track in Ontario and, where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario.

(2) In addition to the tax imposed by subsection 1, every corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, exceeds 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall for every fiscal year of the corporation pay a tax of \$25 per mile for one track in Ontario, and, where the line consists of two or more tracks, of \$20 per mile for each additional track in Ontario.

Additional  
tax

(3) Switches, spurs and sidings shall not be included in the measurement of track for the purpose of this section. R.S.O. 1960, c. 73, s. 8.

Switches,  
etc., not  
to be  
included

**10.** Every corporation that owns, operates or uses a line or a part of a line of telegraph in Ontario for gain, including every corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of 1 per cent upon the total amount of money invested by the corporation in such line or part thereof and the plant and works connected therewith; provided that a corporation that owns and a corporation that operates and uses any such line or part thereof are liable jointly and severally for the payment of such tax, but the total amount payable in respect of such line or part thereof and the works and plant connected therewith shall not exceed the total amount of tax imposed under this section, notwithstanding that the line or part thereof is owned, operated or used by more than one corporation. R.S.O. 1960, c. 73, s. 9.

Telegraph  
companies,  
special tax

**11.** Every corporation that carries on the business of an express company over a railway in Ontario, including a corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of \$800 for each 100 miles or fraction thereof up to but not exceeding a tax of \$10,000. R.S.O. 1960, c. 73, s. 10.

Express  
companies,  
special tax



Car  
companies,  
special tax

**12.** Every corporation, except a corporation that owns, operates or uses a railway, that transacts in Ontario the business of operating, leasing or hiring sleeping or parlour or dining cars run upon or used upon any railway in Ontario, shall, for every fiscal year of the corporation, pay a tax of 1 per cent calculated upon the money invested in such cars in use in Ontario. R.S.O. 1960, c. 73, s. 11.

Insurance  
companies

**13.—(1)** Every insurance corporation shall pay a tax of 2 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the fiscal year in respect of business transacted in Ontario, other than premiums in respect of re-insurance ceded to the corporation by other insurance corporations and considerations for annuities, after deducting from such premiums,

- (a) cash value of dividends credited to policyholders;
- (b) premiums returned. 1965, c. 22, s. 3.

Premiums  
in respect  
of business  
transacted  
in Ontario

(2) In determining the amount of tax payable under subsection 1,

- (a) every life insurance premium that becomes payable at the time the person insured is a resident of Ontario; and
- (b) every other premium that by the terms of the policy or renewal thereof becomes payable in respect of insurance of a person resident or property situate in Ontario at the time such premium becomes payable whether or not,
  - (i) such premium is earned wholly or partly in Ontario,
  - (ii) the business in respect of the policy is transacted wholly or partly in Ontario, or
  - (iii) the payment of such premium is made wholly or partly in Ontario,

shall be deemed to be a premium payable in respect of business transacted in Ontario. R.S.O. 1960, c. 73, s. 13 (2).

Exemption

(3) The tax imposed by subsection 1 is not payable in respect of premiums payable under a contract of marine insurance or by,

- (a) mutual insurance corporations insuring agricultural and other non-hazardous risks on the premium note plan, the sole business of which is carried on in Ontario;
- (b) fraternal societies and mutual benefit societies as defined in *The Insurance Act*; or
- (c) pension fund and employees' mutual benefit societies incorporated under or subject to *The Corporations Act*. 1968-69, c. 19, s. 6.

R.S.O. 1970,  
c. 224

R.S.O. 1970,  
c. 89

(4) In this section, “marine insurance” means insurance against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air that are incidental to a sea voyage. Marine insurance

(5) Where it is established to the satisfaction of the Lieutenant Governor in Council that any jurisdiction discriminates unfairly by imposing taxes, fees and other monetary obligations on any insurance corporation or any particular class of insurance corporations organized under the laws of Canada or of Ontario and having their principal offices in Ontario that in the aggregate are in excess of comparable taxes, fees and monetary obligations imposed on any similar corporation or class of corporations organized under the laws of such jurisdiction, the Lieutenant Governor in Council may direct that any corporation or any class of corporations organized under the laws of such jurisdiction and that transact business in Ontario shall pay, in addition to the tax otherwise imposed by this section, a tax not exceeding the equivalent of such excess, and such additional tax is recoverable in the same manner as any other tax imposed by this Act. Unfair discrimination

(6) For the purposes of this Act, the fiscal year of every insurance corporation shall be deemed to end on the 31st day of December. Fiscal year R.S.O. 1960, c. 73, s. 13 (4-6).

### PART III

#### COMPUTATION OF TAXABLE INCOME

##### DIVISION A—TAXABLE INCOME

**14.** The taxable income of a corporation for a fiscal year is its income for that year minus the deductions permitted by Division C. Taxable income R.S.O. 1960, c. 73, s. 14.

##### DIVISION B—COMPUTATION OF INCOME

###### *General Rules*

**15.** The income of a corporation for a fiscal year for the purposes of this Part is its income for the fiscal year from all sources inside or outside Ontario and, without restricting the generality of the foregoing, includes income for the fiscal year from all businesses and property. World income R.S.O. 1960, c. 73, s. 15.

**16.** Subject to the other provisions of this Part, income for a fiscal year from the business or property of a corporation is the profit therefrom for the fiscal year. Income from business or property R.S.O. 1960, c. 73, s. 16.

*Amounts Included in Computing Income*

Amounts  
included in  
computing  
income,

**17.** Without restricting the generality of section 15, there shall be included in computing the income of a corporation for a fiscal year,

dividends

(a) amounts received in the fiscal year as, on account or in lieu of payment of, or in satisfaction of, dividends;

annuity  
payments

(b) amounts received in the fiscal year as annuity payments;

interest

(c) amounts received in the fiscal year or receivable in the fiscal year, depending upon the method regularly followed by the corporation in computing its profit, as interest or on account or in lieu of payment of, or in satisfaction of, interest;

income from  
partnership  
or syndicate

(d) the income of a corporation from a partnership or syndicate for the fiscal year, whether or not it has withdrawn such income during the fiscal year;

previous  
reserve for  
bad debts

(e) the amount deducted as a reserve for doubtful debts in computing the income of a corporation for the immediately preceding fiscal year;

insurance  
proceeds  
expended

(f) such part of an amount payable to the corporation under a policy of insurance in respect of damage to property that is depreciable property of the corporation within the meaning of section 32 as has been expended by the corporation,

(i) within the fiscal year, and

(ii) within a reasonable time after the damage,

on repairing the damage;

previous  
reserve for  
quadrennial  
survey, etc.

(g) the amount deducted as a reserve under clause 1 of subsection 1 of section 23 in computing the corporation's income for the immediately preceding year;

bad debts  
recovered

(h) amounts received in the fiscal year on account of debts in respect of which a deduction for bad debts had been made in computing the income of the corporation for a previous fiscal year, whether or not the corporation was carrying on the same business in the fiscal year during which such deduction was made;

payments  
based on  
production  
or use

(i) amounts received by the corporation in the fiscal year that were dependent upon use of or production from property, whether or not they were instalments of the sale price of the property, but instalments of the sale price of agricultural land shall not be included by virtue of this clause;

employees  
profit  
sharing plan

(j) amounts received by the corporation in the fiscal year under an employees profit sharing plan established for

the benefit of the employees of the corporation or of a corporation with which the first-mentioned corporation does not deal at arm's length; R.S.O. 1960, c. 73, s. 17; 1961-62, c. 23, s. 5, *part*; 1964, c. 11, s. 2 (1); 1968, c. 20, s. 7.

- (k) amounts received by a corporation in the fiscal year under a deferred profit sharing plan as provided by section 53; 1961-62, c. 23, s. 5, *part*. profit sharing plan
- (l) amounts that the corporation became entitled to receive in the fiscal year upon the disposition of an interest in a life insurance policy, to the extent provided by section 54; insurance policy proceeds
- (m) amounts allocated to the corporation in the fiscal year by an insurer as provided by section 54; 1970, c. 69, s. 4. allocations under insurance policies
- (n) amounts received by the corporation in the fiscal year in consideration for the disposition of a right, licence or privilege to explore for, drill for or take petroleum or natural gas in Canada, as provided by subsection 12 or 14 of section 58; 1962-63, c. 26, s. 2. proceeds from disposition of rights, etc.
- (o) an amount that is included in computing the income of the corporation under Part I of the *Income Tax Act* (Canada) pursuant to section 138A of that Act; 1964, c. 11, s. 2 (2). dividend stripping  
R.S.C. 1952, c. 148
- (p) amounts received by the corporation in the fiscal year as legal costs awarded to it by a court on an appeal in relation to an assessment of tax, interest or penalties under this Act, or the *Income Tax Act* (Canada), if with respect to that assessment an amount has been deducted or may be deductible under clause *w* of subsection 1 of section 23 in computing its income; and legal costs
- (q) superannuation or pension benefits. 1965, c. 22, s. 4. superannuation or pension benefits

**18.—**(1) Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatsoever is that a person confers a benefit on a corporation, that person shall be deemed to have made a payment to the corporation equal to the amount of the benefit conferred notwithstanding the form or legal effect of the transactions or that one or more other persons were also parties thereto; and whether or not there was an intention to avoid or evade taxes under this Act, the payment shall be included in computing the income of the corporation.

(2) Where it is established that a sale, exchange or other transaction was entered into by a corporation and other persons dealing at arm's length, *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment in whole or in

Indirect payment or transfer

Arm's length



part of an existing or future obligation, no party thereto shall be regarded, for the purpose of this section and for the purpose of subsection 5 of section 24, as having conferred a benefit on a corporation who was party thereto. 1968, c. 20, s. 8.

Income and  
capital  
combined

**19.**—(1) Where a payment under a contract or other arrangement can reasonably be regarded as being in part a payment of interest or other payment in the nature of income and in part a payment in the nature of capital, the part of the payment that can reasonably be regarded as a payment of interest or other payment in the nature of income shall, irrespective of when the contract or arrangement was made or the form of legal effect thereof, be included in computing the income of the corporation receiving it. R.S.O. 1960, c. 73, s. 18.

Obligation  
issued at a  
discount  
R.S.C. 1952,  
c. 148

(2) Where, in the case of a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued after December 20, 1960, by a person exempt from tax under section 62 of the *Income Tax Act* (Canada), a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

- (a) the obligation was issued for an amount that is less than the principal amount thereof;
- (b) the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,
  - (i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or
  - (ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

is less than 5 per cent; and

- (c) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest such annual rate obtainable conditional upon the exercise of any such right, exceeds the annual rate determined under clause *b* by more than one-third thereof,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be

included in computing the income of a corporation for the fiscal year in which it became the owner of the obligation if it is the first owner thereof that is a corporation that has a permanent establishment in Canada and if it is not a corporation that is exempt from tax under subsection 42 of section 5. 1961-62, c. 23, s. 6, *part*; 1970, c. 69, s. 5 (1).

(3) In subsection 2, "principal amount", in relation to any obligation, means the amount that, under the terms of the obligation or any agreement relating thereto, is the maximum amount or maximum aggregate amount, as the case may be, payable on account of the obligation by the issuer thereof, otherwise than as or on account of interest or as or on account of any premium payable by the issuer conditional upon the exercise by the issuer of a right to redeem the obligation before the maturity thereof. Interpretation

(4) Subsection 1 does not apply in any case where subsection 2 Application applies. 1961-62, c. 23, s. 6, *part*.

(5) Subsection 1 does not apply to any amount received by a Idem corporation in a fiscal year,

- (a) as an annuity payment;
- (b) as a refund of premiums or contributions paid by the holder of a life annuity contract, as defined by the regulations, upon the death of such holder; or
- (c) in satisfaction of the rights of the corporation under a life annuity contract, as defined by regulation, that was entered into before the 14th day of June, 1963, except to the extent that the amount so received exceeds the aggregate of,
  - (i) the value of its rights under the contract on the second anniversary date of the contract to occur after the 22nd day of October, 1968, and
  - (ii) the aggregate of premiums paid by the corporation under the contract after the said second anniversary date. 1964, c. 11, s. 3; 1970, c. 69, s. 5 (2).

**20.—**(1) Where, in a fiscal year,

- (a) a payment has been made by a corporation to a corporation that is a shareholder therein otherwise than pursuant to a *bona fide* business transaction;
- (b) funds or property of a corporation have been appropriated in any manner whatsoever to or for the benefit of a corporation that is a shareholder therein; or
- (c) a benefit or advantage has been conferred by a corporation to a corporation that is a shareholder therein,

Appropriation of property to shareholders

otherwise than,

- (i) on the reduction of its capital, the redemption of its shares or the winding up, discontinuance or reorganization of its business,
- (ii) by payment of a stock dividend, or
- (iii) by conferring on all holders of common shares in the capital of the corporation a right to buy additional common shares therein,

the amount or value thereof shall be included in computing the income of the corporation that is a shareholder therein for the fiscal year.

Loan to  
shareholder

(2) Where a corporation has in a fiscal year made a loan to a corporation that is a shareholder therein, the amount thereof shall be deemed to have been received by the corporation that is a shareholder therein as a dividend in the fiscal year unless,

- (a) the loan was made in the ordinary course of its business and the lending of money was part of its ordinary business and *bona fide* arrangements were made at the time the loan was made for repayment thereof within a reasonable time; or
- (b) the loan was repaid within one year from the end of the fiscal year of the lending corporation in which it was made and it is established by subsequent events or otherwise that the repayment was not made as a part of a series of loans and repayments.

Interest on  
income  
bonds

(3) An annual or other periodic amount paid by a corporation to another corporation in respect of an income bond or income debenture shall be deemed to have been received by the receiving corporation as a dividend unless the corporation paying it is entitled to deduct the amount so paid in computing its income.

Application

(4) This section is applicable in computing the income of a corporation that is a shareholder of the paying corporation for the purposes of this Part, whether or not the paying corporation had a permanent establishment in Ontario. R.S.O. 1960, c. 73, s. 19.

Certain  
reserves  
included in  
computing  
income—  
banks

**21.** In computing the income for a fiscal year of a bank, there shall be included the amount by which the aggregate of the amounts, that at the end of the fiscal year are set aside or reserved by way of write-down of the value of assets or appropriation to contingency reserves or contingent accounts for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, is, in the opinion of the Minister, having regard to all of the circumstances, in excess of the reasonable requirements of the bank. R.S.O. 1960, c. 73, s. 20; 1968, c. 20, s. 9.

*Amounts Not Included in Computing Income*

**22.** In computing the income of a corporation for a fiscal year, there shall not be included,

- (a) an amount received under a war savings certificate issued by His Majesty in right of Canada or under a similar savings certificate issued by His Majesty in right of Newfoundland before April 1, 1949; Amounts not included in computing income: war savings certificates
- (b) the income for the fiscal year of a non-resident corporation earned in Canada from the operation of a ship or aircraft owned or operated by such corporation, if the country where that corporation resides or maintains its chief place of business grants substantially similar relief for the fiscal year to a corporation that resides or has its chief place of business in Canada; ship or aircraft of non-resident corporation
- (c) an amount received as a result of prospecting that section 57 provides is not to be included; prospecting
- (d) an amount paid to a corporation on account of a development grant under the *Area Development Incentives Act* (Canada) or the *Industrial Research and Development Incentives Act* (Canada). R.S.O. 1960, c. 73, s. 21; 1966, c. 30, s. 2; 1968, c. 20, s. 10. federal development grants 1965, c. 12 (Can.) 1966-67, c. 82 (Can.)

*Deductions Allowed in Computing Income*

**23.**—(1) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted in computing the income of a corporation for a fiscal year,

- (a) an amount paid in the fiscal year or payable in respect of the fiscal year, depending upon the method regularly followed by the corporation in computing its income, pursuant to a legal obligation to pay interest on, interest
  - (i) borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt or to acquire an interest in a life insurance policy,
  - (ii) an amount payable for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, other than property the income from which would be exempt or property that is an interest in a life insurance policy, or
  - (iii) subject to the approval of the Minister, an amount paid to the corporation under,
    - (A) an *Appropriation Act* (Canada) for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry, or



(B) the *Northern Mineral Exploration Assistance Regulations* made under an *Appropriation Act* (Canada),

or a reasonable amount in respect thereof, whichever is the lesser; R.S.O. 1960, c. 73, s. 22 (1), cl. (a); 1968, c. 20, s. 11 (1); 1970, c. 69, s. 6 (1).

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|---|--|
| share<br>transfer<br>and other<br>fees                                | (b) an amount payable in the fiscal year as a fee for services rendered by a person as a registrar or or agent for the transfer of shares of the capital stock of the corporation or as an agent for the remittance to shareholders of the corporation of dividends declared by it;  |
| idem  | (c) an amount payable in the fiscal year as a fee to a stock exchange for the listing of shares of the capital stock of the corporation;   |
| idem  | (d) an expense incurred in the fiscal year in the course of printing and issuing a financial report to shareholders of the corporation or to any other person entitled by law to receive such report; R.S.O. 1960, c. 73, s. 22 (1), cls. (b-d).   |
| certification<br>fee paid<br>to bank<br>1966-67,<br>cc. 87, 93 (Can.) | (e) an amount payable by the corporation in the fiscal year as a fee to a bank to which the <i>Bank Act</i> (Canada) or the <i>Quebec Savings Banks Act</i> (Canada) applies for the certification of a non-interest-bearing post-dated bill drawn by the corporation on the bank and payable not more than ninety days from the date of the certification;  |
| sale<br>of bill   | (f) where a bill described in clause e that was drawn by the corporation was sold by the corporation in the fiscal year, the amount, if any, by which the principal amount of the bill exceeds the consideration paid by the purchaser to the corporation for the bill so sold;  |
| repayment<br>of loan by<br>shareholder                                | (g) such part of any loan repaid by the corporation in the fiscal year as was required by the operation of subsection 2 of section 20, to be included in computing its income for a previous fiscal year, to the extent that the amount of the loan deemed to have been received by the corporation as a dividend was not deductible under section 38 from the income of the corporation for the year in which the dividend was deemed to have been so received, if it is established by subsequent events or otherwise that the repayment was not made as a part of a series of loans and repayments; 1961-62, c. 23, s. 7 (1), <i>part</i> . |
| compound<br>interest  | (h) an amount paid in the fiscal year pursuant to a legal obligation to pay interest on an amount that would be deductible under clause a if it were paid in the fiscal year or payable in respect of the fiscal year;   |

- (i) an expense incurred in the fiscal year,
  - (i) in the course of issuing or selling shares of the capital stock of the corporation, or
  - (ii) in the course of borrowing money used by the corporation for the purpose of earning income from a business or property, other than money used by the corporation for the purpose of acquiring property the income from which would be exempt,

expense of  
issuing  
shares or  
borrowing  
money

but not including any amount in respect of,

- (iii) a commission or bonus paid or payable to a person to whom the shares would be issued or sold or from whom the money was borrowed or for or on account of services rendered by a person as a salesman, agent or dealer in securities in the course of issuing or selling the shares or borrowing the money, or
- (iv) an amount paid or payable as or on account of the principal amount of the indebtedness incurred in the course of borrowing the money, or as or on account of interest;
- (j) such part of a payment,
  - (i) repaying borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt, or
  - (ii) for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, other than property the income from which would be exempt,

idem

made by the corporation in the fiscal year as is by section 19 required to be included in computing the income of the corporation receiving it;

- (k) a reasonable amount as a reserve for,
  - (i) doubtful debts that have been included in computing the income of the corporation for that fiscal year or a previous fiscal year, and
  - (ii) doubtful debts arising from loans made in the ordinary course of business by a corporation part of the ordinary business of which was the lending of money; R.S.O. 1960, c. 73, s. 22 (1), cls. (e-h).
- (l) such amount as may be prescribed as a reserve for expenses to be incurred by the corporation by reason of quadrennial or other special surveys required under the *Canada Shipping Act* (Canada), or the regulations thereunder or under the rules of any society or association for the classification and registry of shipping

reserve for  
doubtful  
debts

reserve for  
quadrennial  
survey

R.S.C. 1952,  
c. 29

R.S.C. 1952,  
c. 29

approved by the Minister of Transport of Canada for the purpose of the *Canada Shipping Act* (Canada); 1968, c. 20, s. 11 (2).

bad debts

- (m) the aggregate of debts owing to the corporation,
  - (i) that it has established to have become bad debts in the fiscal year, and
  - (ii) that it has included, except in the case of debts arising from loans made in the ordinary course of business by a corporation part of the ordinary business of which was the lending of money, in computing its income for that fiscal year or a previous fiscal year; R.S.O. 1960, c. 73, s. 22 (1), cl. (i).

employer's  
contribution  
to pension  
funds

- (n) an amount paid by the corporation in the fiscal year or within 120 days from the end of the fiscal year to or under a registered pension fund or plan in respect of services rendered by employees of the corporation in the fiscal year, subject however as follows:
  - (i) in any case where the amount so paid is the aggregate of amounts, each of which is identifiable as a specified amount in respect of an individual employee of the corporation, the amount deductible under this clause in respect of any one such individual employee is the lesser of the amount so specified in respect of that employee or \$1,500, and
  - (ii) in any other case, the amount deductible under this clause is the lesser of the amount so paid or an amount determined in the prescribed manner, not exceeding \$1,500 multiplied by the number of employees of the corporation in respect of whom the amount so paid by the corporation was paid by it,

plus such amount as may be deducted as a special contribution under section 50; R.S.O. 1960, c. 73, s. 22 (1), cl. (j); 1965, c. 22, s. 5 (1).

Idem

- (o) where a registered pension fund or plan contains a provision under which the corporation may provide superannuation or pension benefits for an employee or former employee of the corporation by making a lump sum payment to or under the fund or plan in the fiscal year in which the employee or former employee,
  - (i) becomes eligible to retire,
  - (ii) retires or otherwise ceases to be employed by the corporation,
  - (iii) reaches an age at which the superannuation or pension benefits so provided for become payable or commence to be payable to him,

- an amount paid by the corporation in the fiscal year or within sixty days from the end of the fiscal year pursuant thereto as the lump sum in respect of an employee or former employee who, in the fiscal year, became eligible to retire, retired or otherwise ceased to be employed by the corporation or reached the age referred to in subclause iii, except to the extent that it is deductible under clause *n*; R.S.O. 1960, c. 73, s. 22 (1), cl. (*k*).
- (*p*) such amount in respect of expenditures on scientific research as is permitted by section 46 or by section 47; 1962-63, c. 26, s. 3 (1). scientific research
- (*q*) the capital element of each annuity payment, other than a superannuation or pension benefit or a payment under a registered retirement savings plan, included in computing income for the fiscal year, that is to say, an amount equal to that part of the payment determined in the prescribed manner to have been a return of capital; R.S.O. 1960, c. 73, s. 22 (1), cl. (*m*). capital element of annuities
- (*r*) such amounts in respect of payments made by a corporation pursuant to allocation in proportion to patronage as are permitted by section 49; R.S.O. 1960, c. 73, s. 22 (1), cl. (*o*). patronage dividend
- (*s*) such amount in respect of taxes on income for the fiscal year from mining operations as is permitted by the regulations; 1962-63, c. 26, s. 3 (2). mining taxes
- (*t*) an amount paid by a corporation to a trustee in trust for employees of such corporation or of a corporation with which such corporation does not deal at arm's length under an employees profit sharing plan as permitted by section 51; R.S.O. 1960, c. 73, s. 22 (1), cl. (*q*). contributions under profit sharing plan
- (*u*) an amount paid by a corporation to a trustee under a registered supplementary unemployment benefit plan as permitted by section 52; R.S.O. 1960, c. 73, s. 22 (1), cl. (*r*); 1968, c. 20, s. 11 (3). contributions under supplementary unemployment benefit plan
- (*v*) an amount paid by the corporation to a trustee under a deferred profit sharing plan as permitted by subsection 4 of section 53; 1961-62, c. 23, s. 7 (1), *part*. employer's contribution under deferred profit sharing plan
- (*w*) amounts paid by the corporation in the fiscal year in respect of fees or expenses incurred in preparing, instituting or prosecuting an objection to, or an appeal in relation to, an assessment of tax, interest or penalties under this Act or the *Income Tax Act* (Canada); 1965, c. 22, s. 5 (2). expenses of objection or appeal  
R.S.C. 1952, c. 148
- (*x*) the amount payable by the corporation for the fiscal year as a contribution under the *Canada Pension Plan* or under a provincial pension plan as defined in section 3 of the *Canada Pension Plan*; Canada Pension Plan contributions 1964-65, c. 51 (Can.)



cancellation  
of lease

- (y) an amount, which would not otherwise be deductible, paid by the corporation in the fiscal year to a person with whom it was dealing at arm's length for the cancellation of a lease of property of the corporation leased by it to that person;

landscaping  
of grounds

- (z) an amount paid by the corporation in the fiscal year for the landscaping of grounds around a building or other structure of the corporation that is used by it primarily for the purpose of gaining or producing income therefrom or from a business;

expenses of  
representa-  
tion

- (za) an amount paid by the corporation in the fiscal year as or on account of expenses incurred by it in making any representation relating to a business carried on by it,
- (i) to the government of a country, province or state or to a municipal or public body performing a function of government in Canada, or
  - (ii) to an agency of a government or of a municipal or public body referred to in subclause i that has authority to make rules, regulations or by-laws relating to the business carried on by the corporation,

including any representation for the purpose of obtaining a licence, permit, franchise or trade mark relating to the business carried on by the corporation;

investiga-  
tion of site

- (zb) an amount paid by the corporation in the fiscal year for investigating the suitability of a site for a building or other structure planned by the corporation for use in connection with a business carried on by it. 1966, c. 30, s. 3 (1).

Deduction  
required in  
computing  
income:

- (2) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there shall be deducted in computing the income of a corporation for a fiscal year,

capital cost  
of property

- (a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, if any, as is provided by the regulations;

allowance  
for oil or gas  
well, mine or  
timber limit

- (b) such amount as an allowance in respect of an oil or gas well, mine or timber limit, if any, as is allowed to the corporation by the regulations.

Share-  
holder's  
allowance  
from  
corporation  
operating  
oil or gas  
wells

- (3) In computing the income of a corporation from shares it holds in another corporation the income of which is from the operation of an oil or gas well or a mine, there may be deducted such amount, if any, as is allowed by the regulations.

(4) For greater certainty it is hereby declared that, in the case of a regulation made under clause *b* of subsection 2 allowing to a corporation an amount in respect of an oil or gas well or a mine, Allowance in respect of oil or gas wells, etc.

- (a) there may be allowed to the corporation by such regulation an amount in respect of any or all oil or gas wells or mines in which the corporation has any interest; and
- (b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined. R.S.O. 1960, c. 73, s. 22 (2-4).

(5) Where a deduction is allowed under clause *b* of subsection 2 in respect of a coal mine operated by a lessee, the lessor and the lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the proportions. R.S.O. 1960, c. 73, s. 22 (5); 1968, c. 20, s. 11 (4). Lessee's share of allowance

(6) For the purpose of clause *a* of subsection 1, where a corporation has borrowed money in consideration of its promise to pay a larger amount and to pay interest on the larger amount, Borrowed money

- (a) the larger amount shall be deemed to be the amount borrowed; and
- (b) where the amount actually borrowed has been used in whole or in part for the purpose of earning income from a business or property, the proportion of the larger amount that the amount actually so used is of the amount actually borrowed shall be deemed to be the amount so used. R.S.O. 1960, c. 73, s. 22 (6).

(7) For greater certainty, it is hereby declared that where a corporation has used borrowed money, Idem

- (a) to repay money previously borrowed; or
- (b) to pay an amount payable for property described in subclause ii of clause *a* of subsection 1 previously acquired,

the borrowed money shall, for the purposes of section 68 and for clause *a* or *j* of subsection 1, be deemed to have been used for the purpose for which the money previously borrowed was used or was deemed by this subsection to have been used, or to acquire the property in respect of which the said amount was so payable, as the case may be. 1970, c. 69, s. 6 (3).

(8) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted, in computing the income for a fiscal year of a bank, such amount as is set aside or reserved for the fiscal year either by way of write-down of the value of assets or appropriation to any contingency reserve or contingent account Banks

for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, and is, in the opinion of the Minister, having regard to all the circumstances, not in excess of the reasonable requirements of the bank. R.S.O. 1960, c. 73, s. 22 (8); 1968, c. 20, s. 11 (5).

Utilities  
service  
connection

(9) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted in computing the income from a business of a corporation for a fiscal year an amount paid by the corporation in the fiscal year to a person, other than a person with whom the corporation does not deal at arm's length, for the purpose of making a service connection to its place of business for the supply, by means of wires, pipes or conduits, of electricity, gas, telephone service, water or sewers supplied by such person, to the extent that the amount so paid was not paid,

- (a) to acquire property of the corporation; or
- (b) as consideration for the goods or services for the supply of which the service connection was undertaken or made.

One-half  
fees paid  
to invest-  
ment  
counsel

(10) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted, in computing the income of a corporation from shares or securities for a fiscal year, one-half the fees paid by the corporation in the fiscal year to an investment counsel for advice as to the advisability of purchasing or selling specific shares or securities.

Interpre-  
tation

(11) For the purpose of subsection 10, "investment counsel" means a person whose principal business is advising others as to the advisability of purchasing or selling specific shares or securities.

Special  
corporation  
tax

(12) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted in computing the income from the business of a corporation for a fiscal year all corporation taxes payable by the corporation in the fiscal year.

Interpre-  
tation

(13) In subsection 12 and in this subsection,

- (a) "corporation tax" means a tax imposed by the legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,
  - (i) a corporation income tax, or
  - (ii) any other tax declared by the regulations not to be a corporation tax;
- (b) "corporation income tax" means a tax imposed by the Parliament of Canada or by the legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations.

(14) Where an amount that is owing to a corporation as or on account of the proceeds of disposition of depreciable property of the corporation of a prescribed class as determined for the purpose of section 32 is established by the corporation to have become a bad debt in a fiscal year, there may be deducted in computing its income for the fiscal year the lesser of,

Uncollect-  
able portions  
of proceeds  
of disposition  
of property

- (a) the amount so owing to the corporation; or
- (b) the amount, if any, by which the capital cost to the corporation of that property, as determined for the purpose of section 32, exceeds the aggregate of the amounts, if any, realized by the corporation on account of the proceeds of disposition. R.S.O. 1960, c. 73, s. 22 (9-14).

(15) Where depreciable property of a corporation has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in a subsequent fiscal year, sold to a person with whom it was dealing at arm's length, there may be deducted, in computing the income of the corporation for the subsequent fiscal year, an amount equal to the lesser of,

Sale of  
agreement  
for sale  
or mortgage  
included in  
proceeds of  
disposition

- (a) the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec; or
- (b) the amount determined under clause *a* less the amount, if any, by which the proceeds of disposition of the depreciable property exceed the capital cost to the corporation of that property. 1965, c. 22, s. 5 (3).

(16) Notwithstanding clauses *a* and *b* of subsection 1 of section 24, there may be deducted, in computing the income of a corporation for a fiscal year from a business that is farming, amounts paid by the corporation in the fiscal year for clearing land, levelling land or laying tile drainage for the purpose of carrying on the farming business.

Clearing  
land,  
levelling  
land and  
laying tile  
drainage

(17) In lieu of making any deduction of an amount permitted by clause *za* of subsection 1 in computing its income for a fiscal year, a corporation may, if it so elects in prescribed manner, make a deduction of one-tenth of that amount in computing its income for that fiscal year and a like deduction in computing its income for each of the nine immediately following fiscal years. 1966, c. 30, s. 3 (2).

Application of  
cl. *za*  
to subs. 1



*Deductions Not Allowed in Computing Income*

Deductions  
not allowed  
in computing  
income:  
general  
limitations

**24.—(1)** In computing income, no deduction shall be made in respect of,

capital  
outlay

limitation re  
exempt  
income

annual  
value of  
property

reserves, etc.

payments  
on income  
bonds

Limitation re  
employer's  
contribution  
under  
deferred profit  
sharing plan

Limitation  
re  
employer's  
contribution  
under profit  
sharing plan

manage-  
ment fee

R.S.C. 1952,  
c. 148

- (a) an outlay or expense except to the extent that it was made or incurred by the corporation for the purpose of gaining or producing income from property or a business of the corporation;
- (b) an outlay, loss or replacement of capital, a payment on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Part;
- (c) an outlay or an expense to the extent that it may reasonably be regarded as having been made or incurred for the purpose of gaining or producing exempt income or in connection with property the income from which would be exempt;
- (d) the annual value of property except rent for property leased by the corporation for use in its business;
- (e) an amount transferred or credited to a reserve, contingent account or sinking fund except as expressly permitted by this Part;
- (f) an amount paid by a corporation other than a personal corporation as interest or otherwise to holders of its income bonds or income debentures unless the bonds or debentures have been issued or the income provisions thereof have been adopted since 1930,
  - (i) to afford relief to the debtor from financial difficulties, and
  - (ii) in place of or as an amendment to bonds or debentures that at the end of 1930 provided unconditionally for a fixed rate of interest;
- (g) an amount paid by a corporation to a trustee under a deferred profit sharing plan except as expressly permitted by section 53;
- (h) an amount paid by a corporation to a trustee under a profit sharing plan that is not,
  - (i) an employees profit sharing plan,
  - (ii) a deferred profit sharing plan, or
  - (iii) a registered pension fund or plan;
- (i) the amount of a management or administration fee or charge paid or credited, or deemed to be paid or credited, to a non-resident person to the extent that such amount is subjected to taxation under paragraph a of subsection 1 of section 106 of the *Income Tax Act* (Canada);

- (j) an amount paid by a corporation to a trustee under a supplementary unemployment benefit plan except as permitted by section 52. R.S.O. 1960, c. 73, s. 23 (1); 1961-62, c. 23, s. 8; 1964, c. 11, s. 4; 1968, c. 20, s. 12 (1). limitation on contribution

(2) In computing income, no deduction shall be made in respect of an outlay or expense otherwise deductible except to the extent that the outlay or expense was reasonable in the circumstances. R.S.O. 1960, c. 73, s. 23 (2). Unreasonable expenses

(3) In computing income, no deduction shall be made in respect of an otherwise deductible outlay or expense of a corporation for advertising space in an issue of a non-Canadian newspaper or periodical dated after the 31st day of December, 1965, for an advertisement directed primarily to a market in Canada if such outlay or expense is not deductible in computing its income under Part I of the *Income Tax Act* (Canada) pursuant to section 12A of that Act. 1966, c. 30, s. 4. Limitation re advertising expense  
R.S.C. 1952, c. 148

(4) Clause *c* of subsection 1 does not apply in respect of an outlay or expense made or incurred by a corporation, at a time when more than 50 per cent of its property consisted of property leased to a subsidiary-controlled corporation subsidiary to it or shares in the capital stock of, bonds, debentures, mortgages or hypothecs of or bills or notes of a subsidiary-controlled corporation subsidiary to it, for the purpose of gaining or producing income in the form of dividends from any such corporation or in connection with property in the form of shares in the capital stock thereof. 1962-63, c. 26, s. 4. Application of subs. 1, cl. c

(5) In computing income, no deduction may be made in respect of a disbursement or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the income. 1968, c. 20, s. 12 (2). Artificial transaction

**25.**—(1) Where the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income, its income for the fiscal year shall be deemed to be not less than its income from all sources other than farming minus the lesser of, Chief source of income

- (a) its loss from farming for the fiscal year; or
- (b) \$2,500 plus the lesser of,
  - (i) one-half of the amount by which its loss from farming for the fiscal year exceeds \$2,500, or
  - (ii) \$2,500. R.S.O. 1960, c. 73, s. 24 (1).

(2) For the purpose of this section, the Minister may determine that the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income. R.S.O. 1960, c. 73, s. 24 (2); 1968, c. 20, s. 13. Minister may determine

Interpre-  
tation

(3) For the purpose of this section, a "loss from farming" is a loss from farming computed by applying the provisions of this Part respecting the computation of income from a business *mutatis mutandis*. R.S.O. 1960, c. 73, s. 24 (3).

Income  
from a  
source

(4) The income of a corporation for a fiscal year from a business, property or other source of income or from sources in a particular place means the income of the corporation computed in accordance with this Part on the assumption that it had during the fiscal year no income except from that source or those sources, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that source or those sources and except such part of any other deductions as may reasonably be regarded as applicable to that source or those sources.

Idem

(5) Where the business carried on by a corporation or the duties performed by it was carried on or were performed, as the case may be, partly in one place and partly in another place, the income of the corporation for the fiscal year from the business carried on by it or the duties performed by it in a particular place means the income of the corporation computed in accordance with this Part on the assumption that it had during the fiscal year no income except from the part of the business that was carried on or the part of those duties that were performed in that particular place, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that part of the business or those duties and such part of any other deductions as may reasonably be regarded as applicable to that part of the business or those duties. 1960-61, c. 14, s. 2.

Inventories

**26.**—(1) For the purpose of computing the income of a corporation from a business or a property, the property described in each inventory of the business shall be valued at its cost to the corporation or its fair market value, whichever is lower, unless,

- (a) all of the property described in all of the inventories of the business is valued at the cost thereof to the corporation; or
- (b) all of the property described in all of the inventories of the business is valued at the fair market value thereof.

Idem

(2) Notwithstanding subsection 1, for the purpose of computing income for a fiscal year, the property described in an inventory at the commencement of the year shall be valued at the same amount as the amount at which it was valued at the end of the immediately preceding fiscal year in computing the income of the corporation for that preceding fiscal year.

(3) For the purpose of this section and section 89, an inventory shall show quantities and nature of the properties that should be included therein in such manner and in sufficient detail that the property may be valued in accordance with this section. R.S.O. 1960, c. 73, s. 25.

Manner of  
keeping  
inventory

**27.**—(1) A payment or transfer of property made pursuant to the direction of or with the concurrence of a corporation to some person for the benefit of the corporation or as a benefit that the corporation desired to have conferred on such person shall be included in computing the income of the corporation to the extent that it would be if the payment or transfer had been made to the corporation. R.S.O. 1960, c. 73, s. 26 (1); 1961-62, c. 23, s. 9 (1).

Indirect  
payments

(2) For the purposes of this Part, a payment or transfer in a fiscal year of property made to the corporation or to some person for the benefit of the corporation and other persons jointly or a profit made by the corporation and other persons jointly in a fiscal year shall be deemed to have been received by the corporation in the fiscal year to the extent of its interest therein notwithstanding that there was no distribution or division thereof in that fiscal year. R.S.O. 1960, c. 73, s. 26 (2); 1961-62, c. 23, s. 9 (2).

Undistrib-  
uted  
payments or  
profits

**28.**—(1) Where a corporation carrying on business in Canada has purchased anything from a person with whom it was not dealing at arm's length at a price in excess of the fair market value, the fair market value thereof shall, for the purpose of computing the income of the corporation from the business, be deemed to have been paid or to be payable therefor.

Inadequate  
considera-  
tions

(2) Where a corporation carrying on business in Canada has sold anything to a person with whom it was not dealing at arm's length at a price less than the fair market value, the fair market value thereof shall, for the purpose of computing the income of the corporation from the business, be deemed to have been received or to be receivable therefor.

Idem

(3) Where a corporation carrying on business in Canada has paid or agreed to pay to a non-resident person with whom it was not dealing at arm's length as price, rental, royalty or other payment, for use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount greater than the amount, hereinafter in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the income of the corporation from the business, be deemed to have been the amount that was paid or is payable therefor.

Idem



Idem (4) Where a non-resident person has paid or agreed to pay to a corporation carrying on business in Canada with which he was not dealing at arm's length as price, rental, royalty or other payment for use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount less than the amount, hereinafter in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the income of the corporation from the business, be deemed to have been the amount that was paid or is payable therefor.

Idem (5) Where property of a corporation has been appropriated in any manner whatsoever to or for the benefit of a shareholder for no consideration or for a consideration below the fair market value and if the sale thereof at the fair market value would have increased the income of the corporation for the fiscal year, then for the purpose of determining the income of the corporation for the fiscal year it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof.

Idem (6) Where property of a corporation has been appropriated in any manner whatsoever to or for the benefit of a shareholder on the winding up of the corporation and if the sale thereof at the fair market value immediately before the winding up would have increased the income of the corporation for the fiscal year, then for the purpose of determining the income of the corporation for the fiscal year it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof.

Idem (7) Where a corporation has disposed of depreciable property as defined for the purpose of section 32 under such circumstances that subsection 3 of section 32 is applicable to determine, for the purpose of clause *a* of subsection 2 of section 23, the capital cost of the property to the person by whom the property was acquired, subsections 2, 5 and 6 of this section are not applicable in respect to the disposition. R.S.O. 1960, c. 73, s. 27.

Unpaid amounts **29.**—(1) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length at the time the outlay or expense was incurred and at the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, is unpaid at the end of that second fiscal year, either,

- (a) the amount so unpaid shall be included in computing the income of the corporation for the third fiscal year following the fiscal year in which the outlay or expense was incurred; or

- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 73 to file its return of income for the third succeeding fiscal year, for the purposes of this Act the following rules apply:

1. The amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said third fiscal year.
2. That person shall be deemed to have made a loan to the corporation on the first day of the said third fiscal year in an amount equal to the amount deemed by rule 1 to have been paid by the corporation.

(2) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the income of the corporation for the fiscal year in which it is wound up. 1965, c. 22, s. 7. Idem

(3) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person as salary, wages or other remuneration in respect of an office or employment is unpaid at the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, Unpaid remuneration

- (a) the amount so unpaid shall be included in computing the corporation's income for the second fiscal year following the fiscal year in which the outlay or expense was incurred; or
- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 73 to file its return of income for the first fiscal year following the fiscal year in which the outlay or expense was incurred, for the purposes of this Act the following rules apply,
- (i) the amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said second fiscal year, and
  - (ii) that person shall be deemed to have made a loan to the corporation on the first day of the said second fiscal year in an amount equal to the amount so unpaid minus the amount, if any, deducted or

withheld therefrom by the corporation on account of that person's tax for the said second fiscal year.

Where  
unpaid at  
time  
corporation  
wound up

(4) Where an amount in respect of a deductible outlay or expense described in subsection 3 that was owing by a corporation is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the corporation's income for the fiscal year in which it is wound up.

Application

(5) Subsection 1 does not apply in any case where subsection 3 applies and subsection 2 does not apply in any case where subsection 4 applies.

Late filing

(6) Where, in respect of an amount described in subsection 1 or 3 that was owing by a corporation to a person, an agreement in prescribed form for the purposes of this section is filed after the day on or before which the agreement is required to be filed for purposes of clause *b* of subsection 1 or clause *b* of subsection 3, as the case may be, both clauses *a* and *b* of subsection 1 or clauses *a* and *b* of subsection 3, as the case may be, apply in respect to the said amount, except that clause *a* of subsection 1 or clause *a* of subsection 3, as the case may be, shall be read and construed as requiring 25 per cent only of the said amount to be included in computing the corporation's income. 1970, c. 69, s. 7.

Loans to  
non-resident  
persons

**30.**—(1) Where a corporation resident in Canada has loaned money to a non-resident person and the loan has remained outstanding for one year or longer without interest at a reasonable rate having been included in computing the income of the lending corporation, interest thereon, computed at 5 per cent per annum for the fiscal year or part of the fiscal year during which the loan was outstanding, shall, for the purpose of computing the income of the lending corporation, be deemed to have been received by the lending corporation on the last day of each fiscal year during all or part of which the loan has been outstanding.

Exception

(2) Subsection 1 does not apply if the loan was made to a subsidiary controlled corporation and it is established that the money that was loaned was used in the business of the subsidiary corporation for the purpose of gaining or producing income. R.S.O. 1960, c. 73, s. 29.

Interest on  
bonds

**31.** Where, by virtue of an assignment or other transfer of a bond, debenture or similar security, other than an income bond or income debenture, the transferee has become entitled to interest in respect of a period commencing before the time of transfer and ending after that time that is not payable until after the time of transfer, an amount equal to that proportion of the interest that the number of days in the portion of the period that preceded the day of transfer is of the number of days in the whole period,

- (a) shall be included in computing the income of the transferor for the fiscal year in which the transfer was made; and
- (b) may be deducted in computing the income of the transferee for a fiscal year in the computation of which there has been included,
  - (i) the full amount of the interest under section 17, or
  - (ii) a portion of the interest under clause *a*. R.S.O. 1960, c. 73, s. 30.

**32.**—(1) Where depreciable property of a corporation of a prescribed class has, in a fiscal year, been disposed of and the proceeds of the disposition exceed the undepreciated capital cost to the corporation of depreciable property of that class immediately before the disposition, the lesser of,

Excess of  
proceeds  
over  
unde-  
preciated  
capital costs

- (a) the amount of the excess; or
- (b) the amount that the excess would be if the property had been disposed of for the capital cost thereof to the corporation,

shall be included in computing the income of the corporation for the fiscal year.

(2) Where one or more amounts are by subsection 1 required to be included in computing the income of a corporation for a fiscal year in respect of the disposition of depreciable property of a prescribed class and the corporation has, during the fiscal year but following the dispositions, acquired further depreciable property of that class, notwithstanding subsection 1 and clause *f* of subsection 4, the following applies:

Determina-  
tion of net  
amount

1. If the aggregate of the amounts that would according to the terms of subsection 1 be included thereunder in computing the income of the corporation is equal to or exceeds the amount that would according to the terms of clause *f* of subsection 4 be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year before any deduction is made under clause *a* of subsection 2 of section 23 for that fiscal year,
  - (i) the amount to be included in computing the income of the corporation for the fiscal year under subsection 1 in respect of dispositions of depreciable property of that class is that aggregate minus the amount that would be that undepreciated capital cost, and
  - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year is nothing.



2. If the aggregate of the amounts that would according to the terms of subsection 1 be included thereunder in computing the income of the corporation is less than the amount that would according to the terms of clause *f* of subsection 4 be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year before any deduction is made under clause *a* of subsection 2 of section 23 for that fiscal year,
  - (i) no amounts shall be included in computing the income of the corporation for the fiscal year in respect of depreciable property of that class under subsection 1, and
  - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the fiscal year before any deduction is made under clause *a* of subsection 2 of section 23 for the fiscal year is the amount that it would be according to the terms of clause *f* of subsection 4 minus that aggregate.

Deprecia-  
tion

(3) Where depreciable property did, at any time after the commencement of a fiscal year ending in 1949, belong to a person, hereinafter in this subsection referred to as the "original owner", and has by one or more transactions between persons not dealing at arm's length become vested in a corporation, the following, notwithstanding section 28, applies for the purposes of this section and the regulations made pursuant to clause *a* of subsection 2 of section 23:

1. The capital cost of the property to the corporation shall be deemed to be the amount that was the capital cost of the property to the original owner.
2. Where the capital cost of the property to the original owner exceeds the actual capital cost of the property to the corporation, the excess shall be deemed to have been allowed to the corporation in respect of the property under the regulations made pursuant to clause *a* of subsection 2 of section 23 in computing income for fiscal years before the acquisition thereof by the corporation. R.S.O. 1960, c. 73, s. 31 (1-3).

Interpre-  
tation

(4) In this section and in the regulations made pursuant to clause *a* of subsection 2 of section 23,

- (a) "conversion", in respect of a vessel, means a conversion or major alteration in Canada by a corporation in accordance with plans approved in writing by the Minister of Industry of Canada for the purposes of the *Income Tax Act* (Canada) and by the Minister, and "conversion cost" means the cost of conversion as determined by the Minister;

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c. 148

- (b) “depreciable property” of a corporation as of any time in a fiscal year means property in respect of which the corporation has been allowed or is entitled to a deduction under the regulations made pursuant to clause *a* of subsection 2 of section 23 in computing income for that or a previous fiscal year;
- (c) “disposition of property” includes any transaction or event entitling a corporation to proceeds of disposition of property;
- (d) “proceeds of disposition” of property includes,
  - (i) the sale price of property that has been sold,
  - (ii) compensation for property damaged, destroyed, taken or injuriously affected, either lawfully or unlawfully, or under statutory authority or otherwise,
  - (iii) an amount payable under a policy of insurance in respect of loss or destruction of property,
  - (iv) an amount payable under a policy of insurance in respect of damage to property except to the extent that the amount has within a reasonable time after the damage been expended on repairing the damage, and
  - (v) an amount by which the liability of a corporation to a mortgagee is reduced as a result of foreclosure of its interest in property that is mortgaged or as a result of the sale of that property under a provision of the mortgage, plus any amount received by the corporation out of the proceeds of such sale;
- (e) “total depreciation” allowed to a corporation before any time for property of a prescribed class means the aggregate of all amounts allowed to the corporation in respect of property of that class under the regulations made pursuant to clause *a* of subsection 2 of section 23 in computing income for the fiscal years before that time;
- (f) “undepreciated capital cost” to a corporation of depreciable property of a prescribed class as of any time means the capital cost to the corporation of depreciable property of that class acquired before that time minus the aggregate of,
  - (i) the total depreciation allowed to the corporation for property of that class before that time,
  - (ii) for each disposition before that time of property of the corporation of that class, the least of,
    - (A) the proceeds of disposition thereof,
    - (B) the capital cost to the corporation thereof, or
    - (C) the undepreciated capital cost to the corporation of property of that class immediately

before the disposition, and

- (iii) each amount by which the undepreciated capital cost to the corporation of depreciable property of that class as of the end of a previous fiscal year was reduced by virtue of subsection 2;

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c. 29

- (g) "vessel" means a vessel as defined in the *Canada Shipping Act* (Canada). R.S.O. 1960, c. 73, s. 31 (4); 1967, c. 15, s. 3; 1968, c. 20, s. 14 (1).

Insurance  
proceeds

(5) Where an amount payable under a policy of insurance in respect of loss or destruction of property of a prescribed class would otherwise be included in computing the income of a corporation for a fiscal year, hereinafter in this subsection referred to as "the initial fiscal year", by virtue of this section,

- (a) it shall, to the extent that it has been expended by the corporation,

- (i) in the fiscal year immediately following the initial fiscal year on acquiring property of the same class,
- (ii) in the fiscal year immediately following the initial fiscal year on acquiring, if the property destroyed was a building, a building of a prescribed class, or
- (iii) within the time certified by the Minister to be a reasonable time following the initial fiscal year, on acquiring, if the property destroyed was a vessel, a vessel of a prescribed class,

not be included in computing the income of the corporation for the initial fiscal year; and

- (b) it shall, to the extent that it has not been included in computing the income of the corporation for the initial fiscal year, be deemed to be proceeds of a disposition made,

- (i) in the case of a vessel, in the fiscal year in which it is in whole or in part expended in accordance with clause *a*, but only to the extent that it is so expended in that year and only if such year is within the time certified by the Minister under subclause iii of clause *a*, and

- (ii) in the case of any other property in the fiscal year immediately following the initial year,

of depreciable property of the corporation of the same class as the property so acquired. R.S.O. 1960, c. 73, s. 31 (5); 1968, c. 20, s. 14 (2).

Transferred  
property

(6) Where depreciable property of a corporation that was included in a prescribed class, hereinafter in this subsection referred to as the "former class", has been transferred to another prescribed class, hereinafter in this subsection referred to as the "other class" for the purpose of clause *f* of subsection 4,

- (a) there shall be added to the capital cost to the corporation of depreciable property of the former class acquired before the transfer the greater of,
- (i) the amount, if any, by which the capital cost to the corporation of the transferred property exceeds the undepreciated capital cost to it of depreciable property of the former class immediately before the transfer, or
  - (ii) the aggregate of all amounts that would have been allowed to the corporation in respect of the transferred property, if it had been a prescribed class, at the rate that was allowed to it in respect of property of the former class under regulations made under clause *a* of subsection 2 of section 23 in computing income for fiscal years before the transfer; and
- (b) there shall be added to the total depreciation allowed to the corporation for property of the other class the greater of the amounts determined under subclauses i and ii of clause *a*. 1960-61, c. 14, s. 3, *part*.

(7) Where, in calculating the amount of a deduction allowed to a corporation under regulations made under clause *a* of subsection 2 of section 23 in respect of depreciable property of the corporation of a prescribed class, there has been added to the capital cost to it of depreciable property of that class the capital cost of depreciable property, hereinafter in this subsection referred to as “added property”, of another prescribed class, for the purpose of this section and the regulations made under clause *a* of subsection 2 of section 23, the added property shall, if the Minister so directs with reference to any fiscal year for which the Minister may make any reassessment or additional assessment or assess tax, interest or penalties under Part V as the circumstances require, be deemed to have been property of the first-mentioned class and not of the other class at all times before the commencement of that fiscal year and, except to the extent that that property or any part thereof has been disposed of by the corporation before the commencement of that fiscal year, to have been transferred from the first-mentioned class to the other class at the commencement of that fiscal year. 1960-61, c. 14, s. 3, *part*; 1968, c. 20, s. 14 (3).

Mis-  
classified  
property

(8) For the purpose of this section and the regulations made pursuant to clause *a* of subsection 2 of section 23, the following applies:

Deprecia-  
tion

1. Where a corporation, having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose, the corporation shall be deemed to have disposed of it at that later time at its fair market value at that time.



2. Where a corporation, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, the corporation shall be deemed to have acquired it at that later time at its fair market value at that time.
3. Where a corporation has acquired property by gift, bequest or inheritance, the capital cost to the corporation shall be deemed to have been the fair market value thereof at the time the corporation so acquired it.
4. Where a corporation has given property away, the corporation shall be deemed to have disposed of it at the time of the gift at its fair market value at that time.
5. Where a property has, since it was acquired by a corporation, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the corporation shall be deemed to have acquired for the purpose of gaining or producing income the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to the corporation equal to the same proportion of the capital cost to the corporation of the whole property, and, if the property has in such a case been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property.
6. Where at any time after a corporation has acquired property there has been a change in the relation between the use regularly made by the corporation of the property for gaining or producing income and the use regularly made of the property for other purposes,
  - (i) if the use regularly made by the corporation of the property for the purpose of gaining or producing income has increased, the corporation shall be deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of the fair market value of the property as of that time that the amount of the increase in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property, and

- (ii) if the use regularly made of the property for the purpose of gaining or producing income has decreased, the corporation shall be deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property.
7. Where an amount can reasonably be regarded as being in part the consideration for disposition of depreciable property of a corporation of a prescribed class and as being in part consideration for something else, the part of the amount that can reasonably be regarded as being the consideration for such disposition shall be deemed to be the proceeds of disposition of depreciable property of that class irrespective of the form or legal effect of the contract or agreement, and the person to whom the depreciable property was disposed of shall be deemed to have acquired the property at a capital cost to him equal to the same part of that amount.
  8. Where a corporation has received or is entitled to receive a grant, subsidy or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, the capital cost of the property shall be deemed to be the capital cost thereof to the corporation minus the amount of the grant, subsidy or other assistance.
  9. Where depreciable property of a corporation has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in the fiscal year, sold to a person with whom it was dealing at arm's length, in consideration for an amount less than the principal amount of the agreement for sale, mortgage or hypothec, there shall be deducted in computing the proceeds of disposition the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec.
  10. Where a corporation has disposed of an interest in a partnership, an amount equal to the part of the consid-

eration for the disposition of the interest of the corporation in the partnership that can reasonably be regarded as being in relation to the interest of the corporation in the depreciable property of a class that was used in the business of the partnership shall be deemed to be proceeds of disposition of depreciable property of that class, and the person who acquired the interest of the corporation in the partnership shall be deemed to have acquired an interest in property at a capital cost equal to that amount. R.S.O. 1960, c. 73, s. 31 (6); 1965, c. 22, s. 8.

Interpre-  
tation

(9) In paragraphs 1, 2, 5 and 6 of subsection 8, in the case of a non-resident corporation, "business" means a business wholly carried on in Canada or such part of a business as is wholly carried on in Canada.

Farming  
and fishing

(10) Subsection 1 does not apply in determining the income of a corporation of a fiscal year from farming or fishing unless the corporation has elected to take a deduction for that or a previous fiscal year under the regulations made pursuant to clause *a* of subsection 2 of section 23 other than a regulation providing solely for an allowance for computing income from farming or fishing. R.S.O. 1960, c. 73, s. 31 (7, 8).

Application  
of subs. 8,  
par. 8,  
1966-67,  
c. 82 (Can.)  
1965,  
c. 12 (Can.)

(11) Paragraph 8 of subsection 8 does not apply in respect of a grant authorized to be paid under an *Appropriation Act* (Canada), the *Industrial Research and Development Incentives Act* (Canada) and the *Area Development Incentives Act* (Canada) and approved by the Minister. 1968-69, c. 19, s. 7.

Application  
of cl. *z* of  
subs. 1  
of s. 22

(12) Where, in computing the income of a corporation for a fiscal year, an amount has been deducted under clause *za* of subsection 1 of section 23 or the taxpayer has elected under subsection 17 of section 23 to make a deduction in respect of an amount that would otherwise have been deductible under that clause, the amount shall, if it was a payment on account of the capital cost of depreciable property, be deemed to have been allowed to the corporation in respect of the property under regulations made under clause *a* of subsection 2 of section 23 in computing the income of the corporation,

(a) for the fiscal year; or

(b) for the fiscal year in which the property was acquired,  
whichever is the later. 1966, c. 30, s. 5, *part*.

Application  
where  
deduction  
under  
R.S.C. 1952,  
c. 43

(13) Notwithstanding subsection 10, where a deduction has been made under the *Canadian Vessel Construction Assistance Act* (Canada) for any year, subsection 1 is applicable in respect of the prescribed class created by that Act or any other prescribed class to which the vessel may have been transferred.

(14) For the purpose of this section and regulations made under clause *a* of subsection 2 of section 23, a vessel in respect of which any conversion cost is incurred after the coming into force of this subsection shall, to the extent of the conversion cost, be deemed to be included in a separate prescribed class. 1968, c. 20, s. 14 (5), *part*.

Conversion  
cost of  
vessel  
deemed  
prescribed  
class

(15) Where a vessel owned by a corporation on the 1st day of January, 1966, or constructed pursuant to a construction contract entered into by the taxpayer prior to 1966 and not completed by that date is disposed of by the corporation before 1974,

Subs. 1 not  
applicable  
in certain  
cases

(a) subsection 1 does not apply to the proceeds of disposition,

- (i) if an amount at least equal to the proceeds of disposition is used by the corporation before 1974 and during the fiscal year of the corporation in which the vessel is disposed of or within four months from the end of that fiscal year, under conditions satisfactory to the Minister, either for replacement or to incur any conversion cost with respect to a vessel owned by the corporation, or

(ii) if the Minister certifies that the corporation has, on satisfactory terms, deposited,

(A) on or before the day on which it is required to file a return of its income for the fiscal year in which the vessel was disposed of, or

(B) on or before such day subsequent to the day referred to in subclause A, as the Minister may specify in respect of the corporation,

an amount at least equal to the tax that would, but for this subsection, be payable by the corporation under this Act in respect of the proceeds of disposition, or satisfactory security therefor, as a guarantee that the proceeds of disposition will be used before 1974 for replacement; and

- (b) the corporation may within the time prescribed for the filing of a return under this Act for the fiscal year in which the vessel was disposed of, elect to have the vessel constituted a prescribed class, or, if any conversion cost in respect of the vessel has been included in a separate prescribed class, have it transferred to that class, and, if it so elects, the vessel shall be deemed to have been so transferred immediately before the disposition thereof but this clause does not apply unless the proceeds of disposition of the vessel exceed the amount that would be the undepreciated capital cost of property of the class to which it would be so transferred. 1968, c. 20, s. 14 (5), *part*; 1970, c. 69, s. 8 (1).



Election in respect of proceeds of disposition of a vessel

(16) Where a vessel owned by a corporation is disposed of by it, it may, if subsection 15 does not apply to the proceeds of disposition or if the corporation does not make an election under clause *b* of subsection 15 within the prescribed time for the filing of a return under this Act for the fiscal year in which the vessel is disposed of, elect to have the proceeds that would be included in its income under subsection 1 treated as proceeds of disposition of property of another prescribed class that includes a vessel owned by it.

Prescribed class constituted by conversion cost deemed part of class constituted by vessel on disposition  
R.S.C. 1952, c. 43

(17) Where a separate prescribed class has been constituted either under this Act or the *Canadian Vessel Construction Assistance Act* (Canada) by virtue of the conversion of a vessel owned by a corporation and the vessel is disposed of by it, if no election is made under clause *b* of subsection 15, the separate prescribed class constituted by virtue of the conversion shall be deemed to have been transferred to the class in which the vessel was included immediately before the disposition thereof.

Reassessments

(18) Notwithstanding any other provision of this Act, where a corporation,

- (a) expended an amount as described in subclause iii of clause *a* of subsection 5; or
- (b) made an election under clause *b* of subsection 15 with respect to a vessel and the proceeds of disposition of the vessel have been used before 1974 for replacement under conditions satisfactory to the Minister,

such reassessments of returns of income shall be made as are necessary to give effect to subsections 5 and 15. 1968, c. 20, s. 14 (5), *part*.

Disposition of deposits

(19) All or any part of a deposit made under subclause ii of clause *a* of subsection 15 may be paid out to or on behalf of any corporation which, under conditions satisfactory to the Minister and as a replacement for the vessel disposed of, acquires a vessel before 1974,

- (a) that was constructed in Canada and is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement (signed at London on the 10th day of December, 1931) applies; and
- (b) in respect of the capital cost of which no allowance has been made to any other corporation under this Act or the *Canadian Vessel Construction Assistance Act* (Canada) or the *Income Tax Act* (Canada),

R.S.C. 1952, cc. 43, 148

or incurs any conversion cost with respect to a vessel owned by the corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the said British Commonwealth Merchant Shipping Agreement applies, but the ratio of the amount paid out to the amount of the deposit shall not exceed the ratio of the capital cost to it of the vessel or the conversion cost to it of the vessel, as the case may be, to the proceeds of disposition of the vessel disposed of; and any deposit or part of a deposit not so paid out before 1974 or not paid out pursuant to subsection 20 shall be paid to the Treasurer of Ontario.

(20) Notwithstanding any other provision of this section, <sup>Idem</sup> where a deposit was made by a corporation under subclause ii of clause *a* of subsection 15 and the proceeds of disposition in respect of which the deposit was made are not used by any corporation before 1974 under conditions satisfactory to the Minister as a replacement for the vessel disposed of,

- (a) to acquire a vessel described in clauses *a* and *b* of subsection 19; or
- (b) to incur any conversion cost with respect to a vessel owned by that corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement applies,

the Minister may refund to the corporation the deposit, or the part thereof not paid out to the corporation under subsection 19, as the case may be, in which case there shall be added, in computing the income of the corporation for the fiscal year of the corporation in which the vessel was disposed of, that proportion of the amount that would have been included in computing its income by virtue of subsection 1 had the deposit not been made under subclause ii of clause *a* of subsection 15, that the portion of the proceeds of disposition not so used before 1974 as such a replacement is of the proceeds of disposition; and notwithstanding any other provision of this Act such reassessments of tax, interest or penalties shall be made as are necessary to give effect to this subsection. 1970, c. 69, s. 8 (3).

**33.**—(1) Where a corporation has at any time before the end of a fiscal year, whether before or after the commencement of this Act, transferred or assigned to a person with whom the corporation was not dealing at arm's length the right to an amount that would, if the right thereto had not been so transferred or assigned, be included in computing the income of the corporation for the fiscal year because the amount would have been received or receivable by the corporation in or in respect of the fiscal year, the amount shall be included in computing the income of the

Transfer of  
rights to  
income

corporation for the fiscal year unless the income is from property and the corporation has also transferred or assigned the property. R.S.O. 1960, c. 73, s. 35.

Idem

(2) Where a person has at any time before the end of a fiscal year, whether before or after the commencement of this Act, transferred or assigned to a corporation with whom the person was not dealing at arm's length the right to an amount that would, if the right thereto had not been so transferred or assigned, be included in computing the income of the person for the fiscal year because the amount would have been received or receivable by the person in or in respect of the fiscal year, the amount shall be included in computing the income of the person for the fiscal year unless the income is from property and the person has also transferred or assigned the property. 1968-69, c. 19, s. 8.

Securities in  
satisfaction  
of income  
debt

**34.**—(1) Where a corporation has received security or other right or a certificate of indebtedness or other evidence of indebtedness wholly or partially as or in lieu of payment of or in satisfaction of an interest, dividend or other debt that was then payable and the amount of which would be included in computing the income of the corporation if it had been paid, the value of the security, right or indebtedness or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing the income of the corporation for the fiscal year in which it was received, and a payment in redemption of a security, satisfaction of the right or discharge of the indebtedness shall not be included in computing the income of the recipient.

Idem

(2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness has been received by a corporation wholly or partially as or in lieu of payment of or in satisfaction of a debt before the debt was payable, but was not itself payable or redeemable before the day on which the debt was payable, it shall for the purpose of subsection 1 be deemed to have been received when the debt became payable by the person holding it at the time.

Idem

(3) This section is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part by which amounts are required to be included in computing income. R.S.O. 1960, c. 73, s. 36.

Bond  
conversion

**35.** Where a corporation acquires a bond of a certain debtor and, in exchange, disposes of another bond of the same debtor, and

(a) the terms on which the bond disposed of conferred the right on the corporation to make the exchange; and

- (b) the amount payable to the corporation on the maturity of the bond acquired is the same as the amount that would have been payable to the corporation on the maturity of the bond disposed of if that bond had been held by the corporation to maturity,

the purchase price of the bond so acquired and the sale price of the bond so disposed of shall be deemed to be,

- (c) the amount at which the bond disposed of was valued in the inventory of property of the corporation at the end of the last fiscal year of the corporation preceding its disposal; or
- (d) if it was not so valued, the purchase price paid by the corporation for the bond disposed of. 1961-62, c. 23, s. 11.

**36.** Where the property described in the inventory of a business at the commencement of a fiscal year has, according to the method adopted by the corporation for computing income from the business for that fiscal year, not been valued as required by subsection 1 of section 26, the property described therein at the commencement of that fiscal year shall, if the Minister so directs, be deemed to have been valued as required by subsection 1 of section 26, and, in any such case, the income of the corporation for that fiscal year shall be correspondingly increased. 1961-62, c. 23, s. 13; 1968, c. 20, s. 16.

Incorrect  
valuation of  
inventory

#### DIVISION C—COMPUTATION OF TAXABLE INCOME

**37.**—(1) For the purpose of computing the taxable income of a corporation for a fiscal year, there may be deducted from the income for the fiscal year such of the following amounts as apply:

Computation  
of taxable  
income

1. The aggregate of gifts made by the corporation in the fiscal year (and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Part in computing the taxable income of the corporation for that immediately preceding fiscal year) to,
  - (i) registered Canadian charitable organizations,
  - (ii) housing corporations resident in Canada and exempt from tax under Part I of the *Income Tax Act* (Canada) by paragraph *ga* of subsection 1 of section 62 thereof, R.S.C. 1952,  
c. 148
  - (iii) Her Majesty in right of any province of Canada other than Ontario and any Canadian municipality,
  - (iv) the United Nations or agencies thereof,
  - (v) universities outside Canada prescribed to be universities, the student body of which ordinarily includes students from Canada, and

charitable  
donations



(vi) charitable organizations outside Canada to which Her Majesty in right of Canada has made a gift during the fiscal year of the corporation or the 12 months immediately preceding that fiscal year, not exceeding 10 per cent of the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister that, in the case of donations to registered Canadian charitable organizations, contain prescribed information.

gifts to  
Her  
Majesty

2. The aggregate of gifts made by the corporation in the fiscal year and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the corporation for that immediately preceding fiscal year to Her Majesty in right of Canada and of Ontario, not exceeding the amount remaining, if any, when the amount deductible for the fiscal year under paragraph 1 is deducted from the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister.

business  
losses

3. Business losses sustained in the five fiscal years immediately preceding and the fiscal year immediately following the taxation year, but,

- (i) an amount in respect of a loss is only deductible to the extent that it exceeds the aggregate of amounts previously deductible in respect of that loss under this Act,
- (ii) no amount is deductible in respect of the loss of any fiscal year until the deductible losses of previous fiscal years have been deducted, and
- (iii) no amount is deductible in respect of losses from the income of any fiscal year except to the extent of the lesser of,

(A) the income of the corporation for the fiscal year from the business in which the loss was sustained and its income for the fiscal year from any other business, or

(B) the income of the corporation for the fiscal year minus all deductions permitted by the provisions of this Division other than this clause. R.S.O. 1960, c. 73, s. 39 (1); 1967, c. 15, s. 4 (1); 1968, c. 20, s. 17 (1, 2).

Application  
of  
subs. 1,  
par. 3

(2) Paragraph 3 of subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, a business loss sustained by it in a preceding fiscal year, in any case where,

(a) between the end of that preceding fiscal year and the end of the taxation year,

(i) more than 50 per cent of the shares in the capital stock of the corporation have been acquired, before the 14th day of June, 1963, by a person or persons who did not, at the end of that preceding fiscal year, own any of the shares in the capital stock of the corporation, or

(ii) control of the corporation has been acquired after the 13th day of June, 1963, by a person or persons who did not, at the end of that preceding fiscal year, control the corporation; and

(b) the corporation was not, during the taxation year, carrying on the business in which the loss was sustained. R.S.O. 1960, c. 73, s. 39 (2); 1964, c. 11, s. 7 (1).

(3) Paragraph 3 of subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, a business loss sustained by it in a preceding fiscal year from the carrying on of a business if, during that preceding fiscal year,

(a) the business of the corporation in which the loss was sustained was wound up or discontinued; and

(b) control of the corporation was acquired,

(i) after the winding-up or discontinuation of the business, and

(ii) after the 13th day of June, 1963,

by a person or persons who did not control the corporation at any time during the preceding fiscal year when the business was being carried on. 1964, c. 11, s. 7 (2).

(4) Paragraph 3 of subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, such part of a loss from farming sustained by it in another fiscal year as was not by virtue of section 25, deductible in computing its income for that other fiscal year, except to the extent of its income, if any, for the fiscal year from farming. 1970, c. 69, s. 9.

(5) Paragraphs 1 and 2 of subsection 1 do not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, any amount in respect of gifts made by the corporation in the fiscal year, until the amount deductible under those paragraphs in respect of gifts made by the corporation in the immediately preceding fiscal year has been deducted. 1968-69, c. 19, s. 9.

*Idem*  
Application  
of section 39,  
subs. 1,  
pars. 1, 2

(6) In respect of a year after 1966, "registered Canadian charitable organization" means,

Registered  
Canadian  
charitable  
organiza-  
tions

R.S.C. 1952,  
c. 148

- (a) a charitable organization in Canada exempt from tax under Part I of the *Income Tax Act* (Canada) by paragraph *e* of subsection 1 of section 62 thereof or a corporation or trust resident in Canada exempt from tax under that Part by paragraph *f* or *g* of that subsection; or
- (b) a branch, section, parish, congregation or other division of an organization described in clause *a* that receives donations on its own behalf,

that has been registered by the Minister for the purposes of this section in respect of the year and whose registration has not been revoked for such year. 1967, c. 15, s. 4 (2), *part*; 1968, c. 20, s. 17 (3).

Registration  
of Canadian  
charitable  
organiza-  
tions

(7) The Minister shall be deemed to have registered as a Canadian charitable organization in respect of the year under this section every charitable organization, corporation or trust that is registered by the Minister of National Revenue for Canada as a Canadian charitable organization in respect of the same year under subsection 3*b* of section 27 of the *Income Tax Act* (Canada). 1967, c. 15, s. 4 (2), *part*; 1968, c. 20, s. 17 (4).

Revocation  
of regis-  
tration

(8) The Minister shall be deemed to have revoked the registration of a charitable organization, corporation or trust as a registered Canadian charitable organization when the Minister of National Revenue for Canada revokes it under subsection 3*c* of section 27 of the *Income Tax Act* (Canada). 1967, c. 15, s. 4 (2), *part*; 1968, c. 20, s. 17 (5).

Dividends  
received by  
a corporation

**38.**—(1) Where a corporation in a fiscal year received a dividend or is deemed by section 55 to have received a dividend from a corporation that,

- (a) was resident in Canada in the fiscal year and was not by virtue of a statutory provision exempt from tax under Part I of the *Income Tax Act* (Canada) for the fiscal year;
- (b) was a corporation non-resident of Canada more than 25 per cent of the issued share capital of which, having full voting rights under all circumstances, belong to the corporation receiving the dividend; or
- (c) was a foreign business corporation more than 25 per cent of the issued share capital of which, having full voting rights under all circumstances, belong to the corporation receiving the dividend,

an amount equal to the dividend minus any amount deducted under subsection 3 of section 23 in computing the income of the corporation receiving the dividend may be deducted from the

income of that corporation for the fiscal year for the purpose of determining its taxable income. R.S.O. 1960, c. 73, s. 40 (1); 1966, c. 30, s. 6.

(2) Where a corporation in a fiscal year received a dividend from a non-resident corporation that is taxable under subsection 2 of section 2 of the *Income Tax Act* (Canada) for that year, the corporation shall deduct from its income for the same fiscal year the same amount in respect of such dividend as the corporation was allowed to deduct under subsection 10 of section 28 of the *Income Tax Act* (Canada). 1962-63, c. 26, s. 5. Idem  
R.S.C. 1952,  
c. 148

(3) Where a corporation has, in computing its taxable income for a fiscal year, deducted an amount under this section in respect of a dividend, no loss arising from transactions with reference to the share in respect of which the dividend was received shall be allowed to reduce the income of the corporation for that or a subsequent fiscal year unless it is established by the corporation that, Losses not  
deductible  
for trading  
stock

- (a) the corporation owned the share 365 days or longer before the loss was sustained; and
- (b) the corporation did not, at the time the dividend was received, own more than 5 per cent of any class of the issued share capital of the corporation from which the dividend was received. R.S.O. 1960, c. 73, s. 40 (2).

#### DIVISION D—EXCEPTIONAL CASES AND SPECIAL RULES

##### *Personal Corporations*

**39.**—(1) No tax is payable under section 5 by a corporation for a fiscal year during which it was a personal corporation. R.S.O. 1960, c. 73, s. 42 (1); 1968-69, c. 18, s. 4. Personal  
corporations  
exempt

(2) In this Act, “personal corporation” means a corporation that, during the whole of the fiscal year in respect of which the expression is being applied, Interpre-  
tation

- (a) was controlled, whether through holding of the majority of the shares of the corporation or in any other manner whatsoever, by an individual resident in Canada, by such individual and one or more members of his family who were resident in Canada or by any other person on his or their behalf;
- (b) derived at least one-quarter of its income from,
  - (i) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or interest therein,
  - (ii) lending money with or without securities,
  - (iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends, or



(iv) estates or trusts; and

- (c) did not carry on an active financial, commercial or industrial business. R.S.O. 1960, c. 73, s. 42 (2); 1968-69, c. 19, s. 11.

Idem (3) For the purpose of clause *a* of subsection 2, the members of the family of an individual are his spouse, sons and daughters, whether or not they live together. R.S.O. 1960, c. 73, s. 42 (3).

Idem (4) For the purpose of clause *c* of subsection 2, a corporation shall be deemed to have carried on an active financial, commercial or industrial business during a fiscal year unless the corporation having earned taxable income during such fiscal year was exempted from tax under Part I of the *Income Tax Act* (Canada) for that fiscal year because it was deemed to be a personal corporation as defined by subsection 1 of section 68 of the *Income Tax Act* (Canada) for the same fiscal year. 1961-62, c. 23, s. 15.

R.S.C. 1952,  
c. 148

Distribution  
of income (5) The income of a personal corporation whether actually distributed or not shall be deemed to have been distributed to and received by the shareholders as a dividend on the last day of each fiscal year of the corporation.

Division of  
income (6) The part of the income of a personal corporation that shall be deemed under this section to have been distributed to and received by a shareholder of the corporation shall be the proportion thereof that the value of all property transferred or loaned to the corporation by the shareholder or any person by whom his share was previously owned is of the value of the property so acquired by the corporation from all its shareholders.

Valuation (7) The value of property transferred or loaned to a personal corporation shall be deemed for the purpose of this section to be its value at the time the property was transferred or loaned to the corporation.

Transfers (8) For the purpose of this section, where the property of a personal corporation is transferred to or otherwise acquired by another personal corporation, the shareholders of the first corporation shall be deemed to have transferred to the second corporation the property that they or persons who previously owned their share transferred to the first corporation.

Dividends  
declared (9) Where a dividend has in a fiscal year actually been paid by a corporation that was at the time of payment and always had been a personal corporation, the portion thereof to which a shareholder is entitled and which is received by the shareholder shall not be included in computing the income of that shareholder for the fiscal year in which it was received. R.S.O. 1960, c. 73, s. 42 (4-8).

Idem (10) Where a dividend has in a fiscal year been paid by a personal corporation that was in some previous fiscal year not a personal corporation, the following applies:

1. The dividend shall not be included in computing the incomes of the shareholders by whom it was received for the fiscal year in which it was received if the dividend does not exceed the remainder obtained when,
  - (i) the aggregate of dividends paid by the corporation previous to that time and not included by virtue of this section in computing the incomes of the shareholders by whom they were received,  
is subtracted from,
  - (ii) the aggregate of the amounts deemed under this section to have been distributed while it was a personal corporation.
2. In a case where the dividend exceeds the remainder referred to in paragraph 1, the dividends shall only be included in computing the incomes of the shareholders by whom it was received for the fiscal year in which it was received to the extent that the excess does not exceed the undistributed income on hand earned by the corporation since the 1st day of January, 1917, in fiscal years when the corporation was not a personal corporation.
3. Where the amount to be included in computing the incomes of shareholders by virtue of paragraph 2 is less than the dividend, the portion thereof that shall be so included in computing the income of a particular shareholder for the fiscal year is the portion thereof that his portion of the dividend is of the whole dividend. R.S.O. 1960, c. 73, s. 42 (9); 1965, c. 22, s. 10.

(11) Where a dividend has in a fiscal year been paid by a corporation when it was not a personal corporation but had previously been one, it shall be included in computing the incomes of the shareholders by whom it was received for the fiscal year in which it was received only to the extent that the dividend exceeds the remainder obtained when,

- (a) the aggregate of dividends paid by the corporation previous to that time and not included by virtue of this section in computing the incomes of shareholders by whom they were received,  
is subtracted from,
- (b) the aggregate of the amounts deemed under this section to have been distributed by it to its shareholders while it was a personal corporation,

and, where the excess is less than the dividend so paid, the amount that shall be so included in computing the income of a particular shareholder for the fiscal year is the proportion of the excess that the portion of the dividend belonging to that particular shareholder is of the whole dividend.

Dividends  
deemed paid  
or received

(12) Where a dividend is deemed by any provision other than this section to have been paid or received, it shall for the purpose of this section be regarded as having been paid.

Where chief  
source of  
income of  
personal  
corporation  
not farming

(13) Where it has been determined for the purpose of subsection 1 of section 25 that the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income, its farming business shall be deemed for the purpose of clause *c* of subsection 2 not to have been during the fiscal year an active financial, commercial or industrial business. R.S.O. 1960, c. 73, s. 42 (10-12).

Where  
corporation  
bankrupt

**40.**—(1) Where a corporation has become a bankrupt, the following rules are applicable:

1. The trustee in bankruptcy shall be deemed to be the agent of the bankrupt for all purposes of this Act.
2. The estate of the bankrupt shall be deemed not to be a trust or an estate for the purposes of this Act.
3. The income and the taxable income of the corporation for any fiscal year of the corporation during which it was a bankrupt and for any subsequent fiscal year shall be calculated as if,
  - (a) the property of the bankrupt did not pass to and vest in the trustee in bankruptcy on the receiving order being made or the assignment filed but remained vested in the bankrupt; and
  - (b) any dealing in the estate of the bankrupt or any act performed in the carrying on of the business of the bankrupt estate by the trustee was done as agent on behalf of the bankrupt and any income of the trustee from such dealing or carrying on is income of the bankrupt and not of the trustee.
4. A fiscal year of the corporation shall be deemed to have commenced on the day the corporation became a bankrupt and a fiscal year of the corporation that would otherwise have ended after the corporation became a bankrupt shall be deemed to have ended on the day immediately before the day on which the corporation became a bankrupt.
5. Where, in the case of any fiscal year of the corporation ending during the period the corporation is a bankrupt, the corporation fails to pay the tax payable by the corporation under this Act for any such fiscal year, the corporation and the trustee in bankruptcy are jointly and severally liable to pay the tax, except that,

- (a) the trustee is only liable to the extent of the property of the bankrupt in his possession; and
- (b) payment by either of them shall discharge the joint obligation.

6. Where an absolute order of discharge is granted in respect of the corporation, for the purpose of paragraph 3 of subsection 1 of section 37, business losses sustained by the corporation in any fiscal year preceding the year in which the order of discharge was granted are not deductible by the corporation in computing its taxable income for the fiscal year of the corporation in which the order was granted or any subsequent fiscal year.

(2) In this section, "bankrupt" and "estate of the bankrupt" have the meaning given to those expressions by the *Bankruptcy Act* (Canada). 1964, c. 11, s. 8.

Interpretation  
R.S.C. 1952,  
c. 14

#### INSURANCE CORPORATIONS

**41.**—(1) For the purpose of this section, an "insurance corporation" or "insurer" means any corporation with or without share capital, to which section 68A of the *Income Tax Act* (Canada) applies. 1970, c. 69, s. 10 (1).

Insurance corporation and insurer defined  
R.S.C. 1952,  
c. 148

(2) Notwithstanding any other provision of this Act and in order that insurance corporations or insurers may be dealt with under this Act as they will be dealt with under Part I of the *Income Tax Act* (Canada) for fiscal years commencing or ending in 1969 and for subsequent fiscal years, it is hereby declared that for the purpose of section 5, the taxable incomes of such corporations for the purposes of this Act shall be the same as the taxable incomes of such corporations as determined for the purposes of Part I of the *Income Tax Act* (Canada). 1968-69, c. 19, s. 12, *part*; 1970, c. 69, s. 10 (2).

Calculation of taxable income

**42.** Where a life insurance corporation that is incorporated under the laws of a province has applied an amount in payment for shares of the corporation purchased by it under the authority of a law of the province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with the provisions of such law,

Conversion of provincial life insurance corporation into mutual corporation

- (a) section 20 does not apply to require the inclusion, in computing the income of a shareholder of the corporation, of any part of that amount; and
- (b) no part of that amount shall be deemed for the purposes of subsection 2 of section 41 to have been paid to shareholders or, for the purposes of section 55, to have been received as a dividend. 1970, c. 69, s. 11.



*Non-Resident-Owned Investment Corporations*

Non-resident-owned investment corporations, tax exempt

**43.**—(1) No tax is payable under section 5 by a corporation for a fiscal year during which it was a non-resident-owned investment corporation. R.S.O. 1960, c. 73, s. 45 (1); 1968-69, c. 18, s. 5.

Interpretation

(2) In this Act, “non-resident-owned investment corporation” means a corporation incorporated in Canada that during the whole of the fiscal year in respect of which the expression is being applied complied with the following conditions:

1. At least 95 per cent of the aggregate value of its issued shares and all its bonds, debentures and other funded indebtedness were,
  - (i) beneficially owned by non-resident persons,
  - (ii) owned by trustees for the benefit of non-resident persons or their unborn issue, or
  - (iii) owned by a corporation, whether incorporated in Canada or elsewhere, at least 95 per cent of the aggregate value of the issued shares of which and all the bonds, debentures and other funded indebtedness of which were beneficially owned by non-resident persons or owned by trustees for the benefit of non-resident persons or their unborn issue or by several such corporations.
2. Its income was derived from,
  - (i) ownership or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein,
  - (ii) lending money with or without security,
  - (iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends, or
  - (iv) estates or trusts.
3. Not more than 10 per cent of its gross revenue was derived from rents, hire of chattels or charterparty fees or remunerations.
4. Its principal business was not,
  - (i) the making of loans, or
  - (ii) trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein.
5. It has, not later than ninety days after the commencement of the fiscal year, elected in the manner provided by section 70 of the *Income Tax Act* (Canada) to be taxed as provided by section 70 thereof.

6. It has not, before the fiscal year, revoked the election under the *Income Tax Act* (Canada) to be taxed under that Act as provided by section 70 thereof.
7. It has paid the taxes payable for a fiscal year under Part I of the *Income Tax Act* (Canada), as provided by subsection 2 of section 70 thereof. R.S.O. 1960, c. 73, s. 45 (2); 1967, c. 15, s. 5; 1968, c. 20, s. 18.

*Foreign Business Corporations*

**44.**—(1) No tax is payable under section 5 by a corporation for a fiscal year during which it was a foreign business corporation. 1968-69, c. 18, s. 6.

Foreign  
business  
corporations, tax  
exempt

(2) In this Act, “foreign business corporation” means a corporation that during the whole of the fiscal year in respect of which the expression is being applied,

Interpre-  
tation

- (a) was not a personal corporation;
- (b) complied with one of the following conditions:
  - (i) its business operations were of an industrial, mining, commercial, public utility or public service nature and were carried on entirely outside Canada, except for management and the designing, purchasing and transportation of goods if the goods were not acquired for resale in the course of trading and were acquired for the operations so carried on outside Canada, either directly or through ownership of shares in or control of subsidiary or affiliated corporations and its property, except securities and bank deposits, was situate entirely outside Canada,
  - (ii) it was the wholly-owned subsidiary of a corporation that complied with the conditions in subclause i and was wholly engaged in carrying on business outside Canada, or
  - (iii) its business was of an investment or financial nature and was carried on entirely outside Canada, its shares had been offered for public subscription or were listed on a recognized stock exchange in Canada or elsewhere and its property, except bank deposits and shares of other corporations that were entitled to exemption under this section, was situate entirely outside Canada; and
- (c) derived not more than 10 per cent of its gross revenue from the leasing or operation by it of a ship or aircraft,

and has,

- (d) filed a return for the fiscal year in the form and within the period of time required by section 73 and within the same time paid the tax levied by section 6; or

- (e) within 370 days from the end of the fiscal year, filed a return for the fiscal year in the form required by section 73 and paid the tax imposed by section 6 plus a penalty for late filing equal to \$10 for each day of delay after the expiration of the period of time from the end of the fiscal year within which section 73 requires the filing of a return. R.S.O. 1960, c. 73, s. 46 (2); 1968-69, c. 19, s. 13.

Situs

(3) For the purposes of this section, shares and bonds of corporations incorporated in Canada shall be deemed to be property situate in Canada notwithstanding that they have been transferred on a register outside Canada.

Exception

(4) Where a corporation would have complied during the whole of a fiscal year with the condition contained in subclause i or clause b of subsection 2 were it not that its business operations during the fiscal year were carried on in part in Canada through ownership of shares in or control of one or more subsidiary or affiliated corporations, the corporation shall be deemed to have complied with that condition if, during the whole of the fiscal year,

- (a) the business operations so carried on in Canada were of a mining nature; and
- (b) its main business operations were of an industrial, mining, commercial, public utility or public service nature, and were, except for management and the designing, purchasing, and transportation of goods, carried on outside Canada.

Application  
of section

(5) This section does not apply to exempt a corporation from tax under section 5 or 6 for a fiscal year ending after the 9th day of April, 1959, hereinafter in this subsection referred to as a "particular taxation year", unless,

- (a) in the case of a corporation that had a fiscal year ending before 1959, the corporation was during its last fiscal year ending before 1959 and each subsequent fiscal year, if any, previous to the particular taxation year, a foreign business corporation;
- (b) in the case of a corporation incorporated on or before the 9th day of April, 1959, that did not have a fiscal year ending before 1959, the corporation was during its first fiscal year ending after 1958 and each subsequent fiscal year, if any, previous to the particular taxation year, a foreign business corporation; or
- (c) in the case of a corporation that had a fiscal year ending on or before the 9th day of April, 1959, the corporation was during the fiscal year in which that date occurred and each subsequent fiscal year, if any, previous to the particular taxation year, a foreign business corporation,

and had during that part of its fiscal year in which that date occurred that was before the 10th day of April, 1959, business operations that complied with one of the conditions contained in clause *b* of subsection 2. R.S.O. 1960, c. 73, s. 46 (3-5).

## CORPORATIONS IN DESIGNATED AREAS

**45.**—(1) Subject to this section, there shall not be included in computing the income of a corporation for a fiscal year income from the carrying on by the corporation of a manufacturing or processing business in a designated area during a fiscal year of the business,

Exemptions  
of income  
from manu-  
facturing  
or processing  
business in  
designated  
area

- (a) occurring wholly within the thirty-six-month period that commenced on the day certified as the day on which the business commenced manufacturing or processing in reasonable commercial quantities; and
- (b) for which the business is certified to be a new manufacturing or processing business carried on in a designated area. 1965, c. 22, s. 11, *part*; 1966, c. 30, s. 7 (1).

(2) In this section,

Interpre-  
tation

- (a) “certified” means certified by the Minister pursuant to subsection 7;
- (b) “designated area” has the meaning given to that expression by the *Department of Industry Act* (Canada);
- (c) “manufacturing or processing business” means a business that had net sales for the fiscal year in respect of which the expression is being applied from the sale of goods processed or manufactured in Canada by the business, the amount of which was at least 95 per cent of the amount by which the gross revenue from the business for the fiscal year exceeds the aggregate of each amount paid or credited in the fiscal year to a customer of the business as a bonus, rebate or discount or for returned or damaged goods;
- (d) “net sales” of a business for a fiscal year means an amount equal to,
  - (i) the gross revenue from the business for the fiscal year from sales,
  - minus,
  - (ii) the aggregate of each amount paid or credited in the fiscal year to a customer of the business as a bonus, rebate or discount or for returned or damaged goods;
- (e) “new manufacturing or processing business” means a manufacturing or processing business that commenced manufacturing or processing in reasonable commercial

1963,  
c. 3 (Can.)



quantities after the 4th day of December, 1963, and before the 1st day of April, 1967, or, where the Minister is satisfied,

- (i) that the facilities to be used in the business were in the process of being constructed, installed or assembled on the site of the proposed business premises on the 29th day of March, 1966, and
- (ii) that the business was unable to commence manufacturing or processing in reasonable commercial quantities before the 1st day of April, 1967, by reason of an event beyond the control of the corporation,

before the 1st day of April, 1968;

- (f) “sales”, in relation to a business, means sales in respect of which an amount is included in computing the income from the business for the fiscal year otherwise than by virtue of section 32 or subsection 1 of section 63; and
- (g) goods processed or manufactured shall be deemed not to include goods that have been packaged only. 1965, c. 22, s. 11, *part*; 1966, c. 30, s. 7 (2); 1967, c. 15, s. 6; 1968, c. 20, s. 19 (1, 2).

Exception

(3) For the purpose of this section, a business that includes,

- (a) operating a gas or oil well;
- (b) logging;
- (c) mining;
- (d) construction;
- (e) farming; or
- (f) fishing,

shall be deemed not to be a manufacturing or processing business. 1966, c. 30, s. 7 (3).

Business in  
a designated  
area

(4) For the purpose of this section, a corporation shall be deemed not to have been carrying on a business in a designated area in a fiscal year unless,

- (a) throughout the fiscal year, the value of all machinery, equipment (other than delivery equipment) and buildings situated in the designated area that were owned or leased by the corporation and used in the business is at least 95 per cent of the value of all machinery, equipment (other than delivery equipment) and buildings wherever situated that were owned or leased by the corporation and used in the business; and
- (b) throughout the fiscal year, the value of all machinery and equipment that were owned or leased by the corporation and used in the business and,

- (i) that were acquired by the corporation or by the lessor, as the case may be, after the 13th day of June, 1963, and before the 18th day of June, 1965, and had not been used for any purpose whatsoever before the 14th day of June, 1963, and
- (ii) that were acquired by the corporation or by the lessor, as the case may be, after the 17th day of June, 1965, and had not been used for any purpose whatsoever,
  - (A) before the machinery and equipment were so acquired, or
  - (B) before the 14th day of June, 1963, if the machinery and equipment were acquired pursuant to a *bona fide* contract in writing entered into before the 18th day of June, 1965, that provided for the acquisition of the machinery and equipment,

is at least 95 per cent of the value of all machinery and equipment that were used in the business. 1965, c. 22, s. 17, *part*; 1966, c. 30, s. 7 (4).

(5) For the purpose of clause *c* of subsection 2, an amount equal Rent to that part of the gross revenue from a business for a fiscal year that is rent from goods processed or manufactured in Canada in the course of the business shall, in determining whether the business is a manufacturing or processing business in the fiscal year, be added to the net sales for the fiscal year from the sale of goods processed or manufactured in Canada by the business.

(6) For the purpose of subsection 4, the value of any machinery, equipment and buildings that were owned or leased by a corporation and used in a business is the value thereof as of the day such machinery, equipment and buildings were first used in the business. Determina-  
tion of value 1965, c. 22, s. 11, *part*.

(7) The Minister may, upon application in prescribed manner Certification by a corporation carrying on a new manufacturing or processing business in a designated area, issue a certificate certifying for the fiscal year of the business in respect of which the application is made,

- (a) that the business was a new manufacturing or processing business;
- (b) that the business was being carried on in a designated area; and
- (c) in the case of the first fiscal year of the business for which a certificate is issued, the day upon which the business commenced manufacturing or processing in reasonable commercial quantities. 1965, c. 22, s. 11, *part*; 1968, c. 20, s. 19 (3).

Notice of  
intention

(8) A corporation intending to carry on a new manufacturing or processing business in a designated area may file with the Minister a notice of intention in such form as may be prescribed. 1965, c. 22, s. 11, *part*; 1968, c. 20, s. 19 (4).

Deemed  
designated  
area

(9) Where, during a fiscal year when an area was a designated area,

- (a) a certificate was issued under subsection 7; or
- (b) a notice of intention was filed under subsection 8,

with respect to a new manufacturing or processing business of a corporation in that area, if the area has ceased to be a designated area, it shall,

- (c) where the business commenced manufacturing or processing in reasonable commercial quantities before the area ceased to be a designated area or within twelve months thereafter; or
- (d) in any other case, if the Minister is satisfied,
  - (i) that the corporation had made substantial progress in establishing the new business before the area ceased to be a designated area, and
  - (ii) that the corporation proceeded with reasonable expedition, after the area ceased to be a designated area, to cause the business to commence manufacturing or processing in reasonable commercial quantities,

for the purposes of the application of this section in computing the income of the corporation from carrying on the business, be deemed to be a designated area. 1965, c. 22, s. 11, *part*; 1968, c. 20, s. 19 (5).

Limitation  
where grant  
payable  
under  
1965,  
c. 12 (Can.)

(10) Where at any time an amount on account of a development grant under the *Area Development Incentives Act* (Canada) has been paid to a corporation for the establishment of a new facility or the expansion of an existing facility as defined in that Act, subsection 1 does not apply to permit a deduction in computing the income of a corporation, for any fiscal year ending after that time, from the carrying on by the corporation of a manufacturing or processing business if,

- (a) in the case of a grant for the establishment of a new facility, the new facility or any part thereof; or
- (b) in the case of a grant for the expansion of an existing facility, the expanded facility or any part thereof, other than the part thereof existing at the time the grant was authorized,

has, during that or a previous fiscal year, been used in carrying on the business. 1966, c. 30, s. 7 (5).

*Scientific Research*

**46.**—(1) In computing the income for a fiscal year of a corporation that had a permanent establishment in Canada and made expenditures in respect of scientific research in the fiscal year, there may be deducted the amount by which the aggregate of, Scientific  
research,  
deductions  
from  
income

- (a) all expenditures of a current nature made in Canada in the fiscal year,
  - (i) on scientific research related to the business and directly undertaken by or on behalf of the corporation,
  - (ii) by payments to an approved association that undertakes scientific research related to the class of business of the corporation,
  - (iii) by payments to an approved university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation,
  - (iv) by payments to a corporation resident in Canada and exempt from tax on taxable income by clause *f* of subsection 42 of section 5,
  - (v) by payments to a corporation resident in Canada for scientific research related to the business of the corporation;
- (b) such amount as may be claimed by the corporation not exceeding the lesser of,
  - (i) the expenditures of a capital nature made in Canada, by acquiring property other than land, in the fiscal year and any previous fiscal year ending after 1958 on scientific research relating to the business and directly undertaken by or on behalf of the corporation, or
  - (ii) the undepreciated capital cost to the corporation of the property so acquired as of the end of the fiscal year, before making any deductions under this clause in computing the income of the corporation for the fiscal year; and
- (c) all expenditures in the year by way of repayments of amounts paid to the corporation under an *Appropriation Act* (Canada) and approved by the Minister for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

exceeds the aggregate of amounts paid to the corporation in the fiscal year under the *Appropriation Act* (Canada). 1968, c. 20, s. 20 (1); 1968-69, c. 19, s. 14 (1, 2).



Idem

(2) There may be deducted, in computing the income for a fiscal year of a corporation that carried on business in Canada and made expenditures in the fiscal year in respect of scientific research carried on outside Canada, all such expenditures of a current nature made in the year,

- (a) on scientific research related to the business and directly undertaken by or on behalf of the corporation; or
- (b) by payments to an approved association, university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation. 1965, c. 22, s. 12 (1).

Determin-  
ation of  
what  
constitutes  
scientific  
research  
R.S.C. 1952,  
c. 148

(3) Where any particular activity constitutes scientific research for the purposes of subsection 2 of section 72 of the *Income Tax Act* (Canada), such particular activity shall constitute scientific research for the purposes of this Act. 1968-69, c. 19, s. 14 (3).

Deductions

(4) No deduction may be made under this section or section 47 in respect of an expenditure made to acquire rights in, or arising out of, scientific research. 1964, c. 11, s. 9, *part*.

Idem

(5) Where in respect of an expenditure on scientific research made by a corporation in a fiscal year an amount is deductible under this section and under section 37, no deduction may be made in respect of the expenditure under section 37 in computing the taxable income of the corporation for any fiscal year. 1965, c. 22, s. 12 (2).

Interpre-  
tation

(6) In this section and in section 47,

- (a) “approved” means approved by the Minister;
- (b) “scientific research” has the meaning given to that expression by regulation;
- (c) references to expenditures on or in respect of scientific research,
  - (i) where the references occur in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution of scientific research, and
  - (ii) where the references occur other than in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution, or the provision of facilities for the prosecution, of scientific research in Canada; and
- (d) references to scientific research relating to a business or class of business include any scientific research that may lead to or facilitate an extension of that business or, as the case may be, business of that class. R.S.O. 1960, c. 73, s. 47 (4); 1962-63, c. 26, s. 6 (4, 5, *part*); 1965, c. 22, s. 12 (3); 1968, c. 20, s. 20 (2).

(7) An amount claimed under clause *b* of subsection 1 in computing a deduction under that subsection shall for the purpose of section 32 be deemed to be an amount allowed to the corporation in respect of the property acquired by the expenditures under the regulations made pursuant to clause *a* of subsection 2 of section 23 and for that purpose the property acquired by the expenditures shall be deemed to be of a separate prescribed class. 1968, c. 20, s. 20 (3).

Expenditures of a capital nature

**47.**—(1) In addition to the deductions allowed for the fiscal year by section 46, a corporation, other than a corporation referred to in subsection 2, that carried on business in Canada and made expenditures in respect of scientific research in a fiscal year may deduct, in computing its income for the fiscal year, 50 per cent of the amount by which,

Additional deduction for scientific research

- (a) the aggregate of,
  - (i) all expenditures of a current nature made in Canada in the fiscal year, as described in subclauses i to v of clause *a* of subsection 1 of section 46, on scientific research, and
  - (ii) all expenditures of a capital nature made in Canada, by acquiring property other than land, in the fiscal year on scientific research,

exceeds,

- (b) the aggregate of,
  - (i) the base scientific expenditure of the corporation, and
  - (ii) any amount paid to the corporation in the fiscal year in respect of scientific research undertaken by the corporation,
    - (A) by Her Majesty in right of Canada or a province,
    - (B) by a person resident in Canada, or
    - (C) by a person not resident in Canada if such person is entitled, in respect of the payment, to a deduction in computing his income by virtue of subclause v of clause *a* of subsection 1 of section 46. 1962-63, c. 26, s. 7, *part*.

(2) In addition to the deductions allowed for the fiscal year by section 46, a corporation that carried on business in Canada and made expenditures in respect of scientific research in a fiscal year and that was associated with one or more corporations in the fiscal year or in the last fiscal year of the corporation that ended before the 11th day of April, 1962, may deduct, in computing its income for the fiscal year, an amount determined by the following rules:

Deduction by associated corporation

1. Determine the amount, if any, by which,
  - (a) the aggregate of the expenditures described in subclauses i and ii of clause *a* of subsection 1 made in the fiscal year by the corporation,  
exceeds,
  - (b) the aggregate of the base scientific expenditure of the corporation and any amount paid to the corporation in the fiscal year as described in subclause ii of clause *b* of subsection 1;
2. Determine the amount, if any, by which,
  - (a) the aggregate of all expenditures described in subclauses i and ii of clause *a* of subsection 1,
    - (i) made by the corporation in the fiscal year, or
    - (ii) made by each corporation associated with the corporation in the fiscal year, in the associated corporation's fiscal year that ended in the same calendar year as the fiscal year referred to in subclause i,  
exceeds,
  - (b) the aggregate of,
    - (i) the base scientific expenditures of the corporation and of each corporation associated with the corporation in the fiscal year other than a corporation an amount equal to the base scientific expenditure of which is included, by virtue of paragraph 12 of subsection 2 of section 66, in the base scientific expenditure of another corporation that is also associated with the corporation in the fiscal year,
    - (ii) the base scientific expenditures of each corporation,
      - (A) that was associated with the corporation in the last fiscal year of the corporation that ended before the 11th day of April, 1962,
      - (B) that was not associated with the corporation in the fiscal year, and
      - (C) in respect of which substantially all the business that was carried on by such corporation in Canada in its last fiscal year that ended before the 11th day of April, 1962, was acquired in any manner whatsoever, other than by an amalgamation within the meaning of section 66, by the corporation or one or more corporations associated with the corporation in the fiscal year, and

- (iii) all amounts described in subclause ii of clause *b* of subsection 1,
  - (A) paid to the corporation in the fiscal year, or
  - (B) paid to each corporation associated with the corporation in the fiscal year, in the associated corporation's fiscal year that ended in the same calendar year as the year referred to in paragraph A;

- 3. Ascertain the aggregate of,
  - (a) the amount calculated under paragraph 1; and
  - (b) the amount calculated pursuant to paragraph 1 for each corporation that is associated with the corporation in the fiscal year; and
- 4. Determine the amount equal to 50 per cent of that portion of the amount determined under paragraph 2 that,
  - (a) the amount determined under paragraph 1,is of,
  - (b) the aggregate ascertained under paragraph 3,

and the amount determined under paragraph 4 is the amount that may be deducted in computing the income for the fiscal year of the corporation. 1962-63, c. 26, s. 7, *part*; 1968, c. 20, s. 21 (1, 2).

(3) For the purposes of subsections 1 and 2, the base scientific expenditure of a corporation is an amount equal to,

Base  
scientific  
expenditure  
defined

- (a) the aggregate of all expenditures of a current or capital nature, by acquiring property other than land, made in Canada by the corporation in the last fiscal year of the corporation that ended before the 11th day of April, 1962, on scientific research related to the business of the corporation,

minus

- (b) any amount paid to the corporation in the fiscal year referred to in clause *a* as described in subclause ii of clause *b* of subsection 1,

but, where the corporation had no fiscal year that ended before the 11th day of April, 1962, its base scientific expenditure is nil. 1964, c. 11, s. 10 (1).

(4) Where property, other than land, acquired by a corporation by expenditures of a capital nature made in Canada by the corporation on scientific research has, in a fiscal year, been disposed of by the corporation, there shall be included in computing the income of the corporation for the year the lesser of,

Disposition  
of property



- (a) an amount equal to 50 per cent of,
  - (i) the proceeds of disposition of the property, or
  - (ii) the capital cost to the corporation of the property,
 whichever is the lesser; or
- (b) an amount equal to,
  - (i) the aggregate of each amount deductible under subsection 1 or 2, as the case may be, in computing the income of the corporation for the fiscal year and each previous fiscal year,
 minus,
  - (ii) the aggregate of each amount included by virtue of this subsection in computing the income of the corporation in respect of a previous disposition of property.

Application  
of clause *b*  
of subs. 4

(5) For the purpose of clause *b* of subsection 4, the amount deductible under subsection 1 or 2, as the case may be, in computing the income of a corporation for a fiscal year shall not include any amount in excess of 50 per cent of the expenditures of a capital nature made in Canada by the corporation, by acquiring property other than land, in the fiscal year on scientific research. 1962-63, c. 26, s. 7, *part*.

Idem

(6) For the purpose of clause *a* of subsection 1, an expenditure of a capital nature made by a corporation in the fiscal year on scientific research does not include any expenditure made by the corporation in that fiscal year for the acquisition, from another corporation associated with the corporation in the fiscal year, of facilities for the prosecution of scientific research. 1964, c. 11, s. 10 (2).

Where grant  
for scientific  
research and  
development  
under  
1966-67,  
c. 82 (Can.)

(7) Where in a fiscal year a grant has been authorized to be paid to a corporation under the *Industrial Research and Development Incentives Act* (Canada) in respect of expenditures on scientific research and development as defined in the *Industrial Research and Development Incentives Act* (Canada), the corporation is not, and shall be deemed never to have been, entitled to make any deduction under this section in computing its income for that fiscal year. 1968, c. 20, s. 21 (3).

#### *Co-operatives*

Co-operative  
corporations,  
income tax  
exemption

**48.**—(1) Except as provided in subsection 2, no tax is payable under section 5 for each of the first three fiscal years after commencement of its business by a co-operative corporation that commenced business on or after the 1st day of January, 1947.

Exception

(2) The exemption provided by subsection 1 does not apply to a co-operative corporation, the business of which is a continuation of a previous business in which a substantial number of its

members had a substantial interest either as shareholders of a corporation carrying on the previous business or otherwise.

(3) Where a co-operative corporation has received a grant Provincial grant from the government of a province that was not fixed by reference to natural products marketed, supplies, equipment or household necessities purchased or sold or services performed by it,

(a) no amount shall be included in respect of the grant in computing the income of the corporation for any fiscal year; and

(b) paragraph 8 of subsection 8 of section 32 is not applicable in respect of any property in respect of or for the acquisition of which the grant was received. R.S.O. 1960, c. 73, s. 48 (1-3).

(4) In this Act, "co-operative corporation" means a corporation that was incorporated under legislation of a province respecting the establishment of co-operative corporations for the purpose of marketing, including processing incident to or connected therewith, natural products belonging to or acquired from its members or customers, of purchasing supplies, equipment or household necessities for or to be sold to its members or customers or of performing services for its members or customers, if, during the fiscal year, Interpretation

(a) the statute under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members or its members and customers held forth the prospect that payments would be made to them in proportion to patronage;

(b) none of its members had more than one vote in the conduct of its affairs;

(c) at least 90 per cent of its members are individuals and at least 90 per cent of its shares, if any, are held by individuals;

(d) the rate of interest on capital subscribed by its members or the rate of its dividends on its shares did not exceed 5 per cent per annum; and

(e) the value of the product marketed for or acquired from, supplies, equipment and household necessities purchased for or sold to, and the services performed for, its customers other than members did not exceed 20 per cent of the total thereof for all its business.

(5) Clause *a* of subsection 2 of section 55 does not apply where the corporation that redeemed or acquired its common shares or that reduced its common stock is a co-operative corporation. R.S.O. 1960, c. 73, s. 48 (5, 6). Non-application of s. 55 (2) (a)

*Patronage Dividends*

Patronage  
dividends,  
deduction in  
computing  
income

**49.**—(1) Notwithstanding anything in this Part, there may be deducted in computing income for a fiscal year the aggregate of the payments made pursuant to allocations in proportion to patronage by a corporation,

- (a) within the fiscal year or within twelve months thereafter to its customers of the fiscal year; and
- (b) within the fiscal year or within twelve months thereafter to its customers of a previous fiscal year, the deduction of which from income of a previous fiscal year was not permitted.

Limitation  
where non-  
member  
customers

(2) Notwithstanding subsection 1, if the corporation has not made allocations in proportion to patronage in respect of all its customers of the fiscal year at the same rate with appropriate differences for different types or classes of goods, products or services, or classes, grades or qualities thereof, the amount that may be deducted under this section is an amount equal to the lesser of,

- (a) the aggregate of the payments mentioned in subsection 1; or
- (b) the aggregate of,
  - (i) the part of the income of the corporation for the fiscal year attributable to business done with members, and
  - (ii) the allocation in proportion to patronage made to non-member customers of the fiscal year.

Limitation  
by reference  
to capital  
employed

(3) Where the deduction of an amount under subsection 1 or 2 would result in the taxable income of the corporation for the fiscal year, before deduction of any amount under subsection 1 of section 37 in respect of business losses, being less than the amount by which,

- (a) 3 per cent of the capital employed in the business at the commencement of the fiscal year, exceeds,
- (b) the interest, if any, paid on borrowed moneys, other than moneys borrowed from a bank or from a corporation or association described in clause *k* of subsection 42 of section 5, and deductible in computing the income of the corporation for the fiscal year,

the amount that may be deducted under this section is such as will leave the corporation with a taxable income before deduction of any amount under subsection 1 of section 37 in respect of business losses, equal to the excess.

## (4) For the purposes of this section,

Interpre-  
tation

- (a) “allocation in proportion to patronage” for a fiscal year means an amount credited by a corporation to a customer of that fiscal year on terms that the customer is entitled to or will receive payment thereof, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from, on behalf of or to the customer, whether as principal or as agent of the customer or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof,
- (i) if the amount was credited,
- (A) within the fiscal year or within twelve months thereafter, and
- (B) at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts were similarly credited to all other customers of that year who were members or to all other customers of that year, as the case may be, with appropriate differences aforesaid for different classes, grades or qualities, and
- (ii) if the prospect that amounts would be so credited was held forth by the corporation to its customers of that year who were members or non-member customers of that year, as the case may be;
- (b) “capital employed in the business” shall be computed in accordance with subsection 8, except that no deduction shall be made from capital in respect of borrowed moneys, other than moneys borrowed from a bank or from a corporation described in clause *k* of subsection 42 of section 5;
- (c) “customer” means a customer of a corporation and includes a person who sells or delivers goods or products to the corporation or for whom the corporation renders services;
- (d) “consumer goods or services” means goods or services the cost of which was not deductible by the corporation in computing the income from a business or property;
- (e) “income of the corporation attributable to business done with members” of any fiscal year means that proportion of the income of the corporation for the fiscal year, before making any deduction under this section, that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for members, is of the total value of goods or products acquired, market-



ed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for all customers during the fiscal year;

(f) “payment” includes,

- (i) the issue of a certificate of indebtedness or shares of the corporation or of a corporation of which the corporation is a subsidiary wholly-owned corporation if the corporation or that other corporation has in the fiscal year or within twelve months thereafter disbursed an amount of money equal to the aggregate face value of all certificates or shares so issued in the course of redeeming or purchasing certificates of indebtedness or shares of the corporation or that other corporation previously issued,
- (ii) the application by the corporation of an amount to the liability of a member to the corporation, including, without restricting the generality of the foregoing, an amount applied in fulfilment of an obligation of the member to make a loan to the corporation and an amount applied on account of payment of shares issued to a member, pursuant to a by-law of the corporation, pursuant to statutory authority or at the request of the member, or
- (iii) the amount of a payment or transfer by the corporation that under subsection 1 of section 27 is required to be included in computing the income of a member;

(g) “member” means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the corporation or of another corporation of which the corporation is a subsidiary wholly-owned corporation; and

(h) “non-member customer” means a customer who is not a member. R.S.O. 1960, c. 73, s. 50 (1-4).

Holding  
forth  
prospects of  
allocations

(5) For the purpose of this section, the corporation shall be deemed to have held forth the prospect that amounts would be credited to a customer of a fiscal year by way of allocation in proportion to patronage,

- (a) if throughout the fiscal year the statute under which the corporation was incorporated or registered, its charter, articles of association or by-laws or its contract with the customer held forth the prospect that amounts would be so credited to customers who are members or non-member customers, as the case may be; or
- (b) if prior to the commencement of the fiscal year or prior to such other day as is prescribed for the class of business

in which the corporation is engaged, the corporation has published an advertisement in the prescribed form in a newspaper or newspapers of general circulation throughout the greater part of the area in which the corporation carried on business holding forth that prospect to customers who are members or non-member customers, as the case may be, and has filed copies of the newspaper or newspapers with the Minister before the end of the thirtieth day of the fiscal year or within thirty days from the prescribed day, as the case may be. R.S.O. 1960, c. 73, s. 50 (5); 1968, c. 20, s. 22 (1).

(6) For the purpose of subsection 3, “3 per cent of the capital employed in the business at the commencement of the fiscal year” means, in any case where the fiscal year of the corporation is less than twelve months, that proportion of 3 per cent of the capital so employed at the commencement of the fiscal year that the number of days in the fiscal year is of 365. Interpretation

(7) Where a payment has been received by a corporation in respect of an allocation in proportion to patronage, other than an allocation in respect of consumer goods or services, the amount thereof shall be included in computing the income of the recipient for the fiscal year in which the payment was received and, without restricting the generality of the foregoing, where a certificate of indebtedness or a share was issued to a person in respect of an allocation in proportion to patronage, the amount thereof shall be included in computing the income of the recipient for the fiscal year in which the certificate or share was received and not in computing his income for the fiscal year in which the indebtedness was subsequently discharged or the share was redeemed. Customer's income

(8) For the purpose of this section, “capital employed in the business” means the capital at the beginning of the fiscal year and shall be computed in accordance with the following and is subject to the deductions or other adjustments provided in subsections 9 to 13: Interpretation

1. So far as it consists of assets acquired by purchase on or after the incorporation of the corporation, the price at which those assets were acquired and, where the price of any asset has been satisfied otherwise than in cash, the value of the consideration actually given for that asset at the time the consideration was given shall be treated as the price at which such asset was acquired.
2. So far as it consists of assets being debts due to the corporation, the full amount of those debts subject to any deduction that has been allowed under this Act in respect thereof on account of bad debts.

3. So far as it consists of any other assets that have been acquired otherwise than by purchase as aforesaid, the value of the assets when they became assets of the corporation.
4. The amount of money or bank deposits that is actually used by the corporation in its business. R.S.O. 1960, c. 73, s. 50 (6-8).

Idem

(9) Capital employed in the business is subject to the following deductions:

1. Any sum contributed directly or indirectly by Canada or by any province of Canada towards the acquisition by the corporation of any asset referred to in subsection 8.
2. The total amount of depreciation that has been or should have been taken into account in accordance with this Act or any predecessor thereto plus any accumulated depreciation reserves at the commencement of this Act or any predecessor thereto recognized by the Minister for the purposes of this section, and in addition such amount on account of depletion as is deemed by the Minister to be fair and reasonable.
3. Any borrowed money and debts of the corporation, other than dividends declared but unpaid at the commencement of the fiscal year, except the amount of indebtedness represented by income bonds or income debentures, the interest on which is not allowed as a deduction under clause *f* of subsection 1 of section 24 or any provision under a former Act of like character and except the amount of indebtedness represented by a non-interest bearing advance from a corporation to its subsidiary that the Minister, in his sole discretion, determines to be in the nature of permanently invested capital.
4. Any investments the income from which is exempt or would be exempt from the tax imposed by section 5.
5. Any moneys, bank deposits, investments or other assets that are unproductive and are not required for the purposes of the business or that were not acquired for the purposes of the business. R.S.O. 1960, c. 73, s. 50 (9); 1968, c. 20, s. 22 (2, 3).

Idem

(10) Capital employed in the business,

- (a) shall be increased by a portion of any *bona fide* additions to the assets of the corporation or reduction in the liabilities of the corporation in the fiscal year; and

- (b) shall be decreased by a portion of any *bona fide* reduction in the assets of the corporation or addition to the liabilities of the corporation in the fiscal year, unless the increase or decrease results from profits or losses of the corporation in the fiscal year.

(11) The increase or decrease required by subsection 10 is that <sup>Idem</sup> proportion of the addition or reduction, as the case may be, that the number of days in the fiscal year after the addition or reduction occurs bears to the number of days in the fiscal year.

(12) Capital employed in the business shall be decreased by the <sup>Idem</sup> amount of dividends paid in cash during the fiscal year to the extent of one-half of the amount by which the capital, calculated in accordance with subsections 8 and 9, at the commencement of the fiscal year is greater than the capital so calculated at the commencement of the next succeeding fiscal year.

(13) Notwithstanding anything in this section, the computa- <sup>Idem</sup> tion of capital employed in the business may be revised to disregard the whole or any portion of capital values resulting from a transaction deemed not to have been arranged at arm's length. R.S.O. 1960, c. 73, s. 50 (10-13).

#### *Special Contributions by Corporations to Superannuation Funds*

**50.**—(1) Where a corporation is an employer and has made a special payment in a fiscal year on account of an employees' <sup>Employer's payment to pension plan</sup> superannuation or pension fund or plan in respect of past services of employees pursuant to a recommendation by a qualified actuary in whose opinion the resources of the fund or plan required to be augmented by an amount not less than the amount of the special payment to ensure that all the obligations of the fund or plan to the employees may be discharged in full, and has made the payment so that it is irrevocably vested in or for the fund or plan and the payment has been approved by the Minister, there may be deducted in computing the income of the corporation for the fiscal year the amount of the special payment. R.S.O. 1960, c. 73, s. 51 (1); 1968, c. 20, s. 23.

(2) For greater certainty and without restricting the general- <sup>Application</sup> ity of subsection 1, it is hereby declared that subsection 1 is applicable where the resources of a fund or plan required to be augmented by reason of an increase in the superannuation or pension benefits payable out of or under the fund or plan. R.S.O. 1960, c. 73, s. 51 (2).

#### *Employees Profit Sharing Plan*

**51.**—(1) In this Act, "employees profit sharing plan" means <sup>Interpretation</sup> an arrangement under which payments computed by reference to



the profits from the business of a corporation or by reference to the profits from the business of a corporation and the profits, if any, from the business of a person with whom the corporation does not deal at arm's length are made by the corporation to a trustee in trust for the benefit of officers or employees of the corporation or of a person with whom the corporation does not deal at arm's length, whether or not payments are also made to the trustee by the officers or employees, and under which the trustee has, since the commencement of the plan or the end of 1949, whichever is later, each year allocated either contingently or absolutely to individual officers or employees,

- (a) all amounts received by him from the corporation or from a person with whom the corporation does not deal at arm's length; and
- (b) all profits from the trust property, computed without regard to any capital gain made by the trust or capital loss sustained by it at any time since the end of 1955,

in such manner that the aggregate of all such amounts and such profits minus such portion thereof as has been paid to beneficiaries under the trust is allocated either contingently or absolutely to officers or employees who are beneficiaries thereunder.

No tax  
while trust  
governed  
by a plan

(2) No tax is payable under section 5 on the taxable income of the trust for a fiscal year during which the trust was governed by an employees profit sharing plan.

Corpora-  
tion's  
contribution  
to trust  
deductible

(3) An amount paid by a corporation to a trustee under an employees profit sharing plan during a fiscal year or within 120 days thereafter may be deducted in computing the income of the corporation for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year.

Payment  
out of  
profits

R.S.C. 1952,  
c. 148

(4) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profits", such arrangement shall, if the corporation has so elected under subsection 7 of section 79 of the *Income Tax Act* (Canada), be deemed for the purpose of subsection 1 to be an arrangement for payments "computed by reference to the profit of the corporation from its business". R.S.O. 1960, c. 73, s. 52.

Fiscal year  
of trust

(5) Where an employees profit sharing plan is accepted for registration by the Minister as a deferred profit sharing plan, the fiscal year of the trust governed by the employees profit sharing plan shall be deemed to have ended immediately before the plan is deemed to have become registered as a deferred profit sharing plan pursuant to subsection 2 of section 53. 1961-62, c. 23, s. 17; 1968, c. 20, s. 24.

*Supplementary Unemployment Benefit Plan*

**52.**—(1) In this Act,

(a) “registered supplementary unemployment benefit plan” means a supplementary unemployment benefit plan accepted by the Minister for registration for the purposes of this Act in respect of its constitution and operations for the fiscal year under consideration;

Interpre-  
tation  
registered  
supplement-  
ary unem-  
ployment  
benefit  
plan

(b) “supplementary unemployment benefit plan” means an arrangement, other than an arrangement in the nature of a superannuation or pension fund or plan or an employees profit sharing plan, under which payments are made by a corporation to a trustee in trust exclusively for the payment of periodic amounts to employees or former employees of the corporation who are or may be laid off for any temporary or indefinite period. 1968, c. 20, s. 25, *part*.

supplemen-  
tary unem-  
ployment  
benefit  
plan

(2) The Minister shall be deemed to have accepted for registration as a supplementary unemployment benefit plan under this Act every supplementary unemployment benefit plan that is accepted for registration by the Minister of National Revenue for Canada as a supplementary unemployment benefit plan under section 79A of the *Income Tax Act* (Canada). 1970, c. 69, s. 13, *part*.

Plan  
deemed  
accepted

R.S.C. 1952,  
c. 148

(3) No tax is payable under section 5 upon the taxable income of the trust for a period during which the trust was governed by a registered supplementary unemployment benefit plan.

No tax  
while trust  
governed  
by plan

(4) An amount paid by a corporation to a trustee under a registered supplementary unemployment benefit plan during a fiscal year or within thirty days thereafter may be deducted in computing the income of the corporation for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. 1968, c. 20, s. 25, *part*.

Payments  
by cor-  
poration  
deductible

(5) There shall be included in computing the income for a fiscal year of a corporation that, as an employer, has made any payment to a trustee under a supplementary unemployment benefit plan, any amount received by the corporation in the year as a result of an amendment to or modification of the plan or as a result of the termination or winding up of the plan. 1970, c. 69, s. 13, *part*.

Amounts  
received on  
amendment  
or winding  
up of plan

**53.**—(1) In this Act,

(a) “deferred profit sharing plan” means a profit sharing plan accepted by the Minister for registration under this Act; and

Interpre-  
tation

- (b) "profit sharing plan" means an arrangement under which payments computed by reference to the profits of a corporation from its business or by reference to the profits from its business and the profits, if any, from the business of a person with whom the corporation does not deal at arm's length are or have been made by the corporation to a trustee in trust for the benefit of employees of that corporation or of any other person, whether or not payments are or have been also made to the trustee by the employees. 1961-62, c. 23, s. 18, *part*; 1968, c. 20, s. 26 (1, 2).

Acceptance  
of plan for  
registration

R.S.C. 1952,  
c. 148

(2) The Minister shall be deemed to have accepted for registration as a deferred profit sharing plan under this Act every profit sharing plan that is deemed to be registered by the Minister of National Revenue for Canada as a deferred profit sharing plan under section 79C of the *Income Tax Act* (Canada), and such plan shall be deemed to have been registered by the Minister on the same date as it is deemed to be registered as a deferred profit sharing plan under subsection 4 of section 79C of the *Income Tax Act* (Canada). 1961-62, c. 23, s. 18, *part*; 1968, c. 20, s. 26 (3).

Revocation  
of  
registration

(3) The Minister shall be deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan as and when the Minister of National Revenue for Canada revokes it under subsection 13 of section 79C of the *Income Tax Act* (Canada). 1961-62, c. 23, s. 18, *part*; 1968, c. 20, s. 26 (4).

Deferred  
plan not  
employees  
profit  
sharing plan

(4) For a fiscal year during which a plan is a deferred profit sharing plan, the plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan.

No tax  
while trust  
governed  
by plan

(5) No tax is payable under section 5 on the taxable income of the trust for a fiscal year during which,

- (a) the trust was governed by a deferred profit sharing plan; and
- (b) not less than 90 per cent of the income of the trust for the fiscal year was from sources in Canada, and for the purpose of this clause contributions to or under the plan shall not be included in computing the income of the trust. 1961-62, c. 23, s. 18, *part*.

Amount of  
corpora-  
tion's con-  
tribution  
deductible

(6) There may be deducted in computing the income of a corporation for a fiscal year the aggregate of each amount paid by the corporation in the year or within 120 days after the end of the fiscal year, to a trustee under a deferred profit sharing plan for the benefit of employees of the corporation who are beneficiaries under the plan, not exceeding, however, in respect of each individual employee in respect of whom the amounts so paid by the corporation were paid by it, an amount equal to the least of,

- (a) the aggregate of each amount so paid by the corporation in respect of that employee;
- (b) \$1,500, minus the amount, if any, deductible under clause *n* of subsection 1 of section 23 in respect of that employee in computing the income of the corporation for the fiscal year; or
- (c) 20 per cent of the salary or wages paid in the year to the employee by the corporation,

to the extent that such amount was not deductible in computing the income of the corporation for a previous fiscal year. 1968, c. 20, s. 26 (5).

(7) Notwithstanding subsection 6, the amount that a corporation is entitled to deduct under subsection 6 in computing its income for a fiscal year shall be neither more nor less than the amount that it deducts and is allowed as a deduction in computing its income for the same fiscal year under subsections 7 and 8 of section 79C of the *Income Tax Act* (Canada).

Limitation  
on  
deduction

R.S.C. 1952,  
c. 148

(8) Where funds or property of a trust governed by a deferred profit sharing plan have been appropriated in any manner whatsoever to or for the benefit of a corporation that is,

Appropriation of trust  
by  
corporation

- (a) an employer by whom payments are made in trust to a trustee under the plan; or
- (b) a corporation with whom that employer does not deal at arm's length,

otherwise than in payment of or on account of shares of the capital stock of either that employer or the corporation, as the case may be, purchased by the trust, the amount or value of the funds or property so appropriated shall be included in computing the income of the employer or the corporation, as the case may be, for the fiscal year in which the funds or property were so appropriated, unless such funds or property or an amount in lieu thereof equal to the amount or value of such funds or property were repaid to the trust within one year from the end of the fiscal year, and it is established by subsequent events or otherwise that the repayment was not made as part of a series of appropriations and repayments. 1961-62, c. 23, s. 18, *part*.

(9) Where the Minister is deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan under subsection 3, the plan, hereinafter referred to as the "revoked plan", shall be deemed, for the purposes of this Act, not to be a deferred profit sharing plan, and, notwithstanding any other provision of this Act, the following rules shall apply:

Rules  
applicable  
to revoked  
plan

1. Subsection 5 does not apply to exempt the trust governed by the plan from tax under section 5 upon the taxable income of the trust for a fiscal year in which, at any time therein, the trust was governed by the revoked plan.



2. No deduction shall be made by a corporation in computing its income for a fiscal year in respect of an amount paid by it under the plan at a time when it was a revoked plan.
3. There shall be included in computing the income of a corporation for a fiscal year the amount or value of any funds or property appropriated to or for the benefit of the corporation in the fiscal year that, by virtue of subsection 8, would have been so included if the revoked plan had been a deferred profit sharing plan at the time of the appropriation of the funds or property.
4. The revoked plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan. 1961-62, c. 23, s. 18, *part*; 1968, c. 20, s. 26 (6).

Payments  
out of  
profits

(10) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profits", such arrangement shall be deemed, for the purpose of clause *b* of subsection 1, to be an arrangement for payments "computed by reference to the profits of a corporation from its business". 1961-62, c. 23, s. 18, *part*.

Amounts  
included in  
computing  
policy-  
holder's  
income  
R.S.C. 1952,  
c. 148

**54.** Where a corporation to which the provisions of section 79D of the *Income Tax Act* (Canada) apply, it is hereby declared that the amount to be included in its income for the purposes of this section shall be the same as is required to be included for the purposes of section 79D of the *Income Tax Act* (Canada). 1970, c. 69, s. 14.

#### *Undistributed Income*

Undistri-  
buted  
income  
on hand

**55.**—(1) Where funds or property of a corporation have, at a time when the corporation had undistributed income on hand, been distributed or otherwise appropriated in any manner whatsoever to or for the benefit of one or more of its shareholders on the winding-up, discontinuance or reorganization of its business, a dividend shall be deemed to have been received at that time by each shareholder equal to the lesser of,

- (a) the amount or value of the funds or property so distributed or appropriated to him; or
- (b) his portion of the undistributed income then on hand.

Deemed to  
be dividend

(2) Where a corporation has, at a time when it had undistributed income on hand,

- (a) redeemed or acquired any of its common shares or reduced its common stock; or
- (b) converted any of its common shares into shares other than common shares or into some obligation of the corporation,

a dividend shall be deemed to have been received at that time by each of the persons who held any of the shares at that time equal to the lesser of,

- (i) the amount received or the value of that which was received by him for or in respect of the shares or the reduction or conversion, or
- (ii) his portion of the undistributed income then on hand.

(3) Where the whole or any part of the undistributed income on hand of a corporation has been capitalized, a dividend shall be deemed to have been received by each of the persons who held any of its shares immediately before the capitalization equal to the shareholder's portion of the undistributed income that was capitalized.

Undistri-  
buted  
income  
capitalized

(4) Where under this section a dividend has been deemed to have been received, the undistributed income on hand of the corporation paying it shall be deemed to have been reduced by the amount that the shareholders are so deemed to have received.

Undistri-  
buted  
income  
reduced

(5) Where a corporation has paid a stock dividend, the corporation shall for the purpose of subsection 3 be deemed to have capitalized immediately before the payment undistributed income on hand equal to the lesser of,

Stock  
dividend

- (a) the undistributed income then on hand; or
- (b) the amount of the stock dividend.

(6) Except where the corporation is a non-resident corporation more than 50 per cent of the share capital of which having full voting rights under all circumstances belongs to non-residents, this section is applicable in computing the income of the shareholder for the purpose of this Part, whether or not the corporation had a permanent establishment in Canada. R.S.O. 1960, c. 73, s. 54 (1-6).

Non-resident  
corporation

(7) Where a corporation has at any time increased its paid-up capital otherwise than by,

Where  
paid-up  
capital  
increased

- (a) payment of a stock dividend; or
- (b) a transaction that has increased the assets of, or reduced the liabilities of, the corporation by an amount not less than the amount by which its paid-up capital has been increased,

the corporation shall, for the purpose of subsection 3, be deemed to have capitalized at that time undistributed income on hand equal to the lesser of,

- (c) the undistributed income then on hand; or

- (d) the amount by which the corporation's paid-up capital was so increased, minus the amount, if any, by which the assets of the corporation have been increased or the liabilities of the corporation have been reduced by virtue of the increase in its paid-up capital. R.S.O. 1960, c. 73, s. 54 (7); 1960-61, c. 14, s. 5.

Undistri-  
buted  
income  
on hand

**56.**—(1) In this Act, “undistributed income on hand” of a corporation at the end of or at any time in a specified fiscal year means the aggregate of the incomes of the corporation for the fiscal years beginning with the fiscal year that ended in 1917 and ending with the specified fiscal year minus the aggregate of the following amounts for each of those years:

1. Each loss sustained by the corporation for a fiscal year.
2. Each expense incurred or disbursement made by the corporation during one of those years that was not allowed as a deduction in computing income for one of those years under this Part, except,
  - (i) an expense incurred or a disbursement made in respect of the acquisition of property, including goodwill, or the repayment of loans or capital,
  - (ii) an outlay or expense the deduction of which was not allowed by reason of subsection 3 of section 24, or
  - (iii) unless the undistributed income on hand is being determined for the purpose of subsection 1 of section 55, any part of the payment referred to in section 50 that has not been allowed as a deduction in computing income of one of those years.
3. The amount by which all capital losses sustained by the corporation in those fiscal years exceeds all capital profits or gains made by the corporation in those fiscal years.
4. All amounts by which under other provisions of this Act the undistributed income on hand of the corporation has been deemed to have been reduced previous to the specified fiscal year.
5. Dividends paid by the corporation in those fiscal years except a dividend that was paid exclusively out of a surplus or accumulated profits on hand before the 1st day of January, 1917, and that was not taxable under the *Income War Tax Act* (Canada) as income of the recipient other than a dividend or any part of a dividend that is established to have been paid out of income for the fiscal year ending in 1917 that was earned before the 1st day of January, 1917, minus the aggregate of

amounts if any that were deductible by the shareholders in respect of the dividends under the regulations made under subsection 3 of section 23 or that would have been so deductible if the shareholders had been taxable under section 5 for the fiscal year in which the dividends were received.

- 6. Premiums determined in the manner provided by subsection 3 paid by the corporation on redemption or acquisition of any of its shares other than common shares.

(2) A shareholder's portion of undistributed income on hand of a corporation at any time, or any portion thereof, means the amount that would have been payable to him on the winding-up of the corporation at that time if the subscribed capital had been repaid and what remained to be distributed on the winding-up were an amount equal to the undistributed income on hand at that time, or the portion of it, as the case may be.

Shareholder's portion

(3) For the purpose of this section, a share has been redeemed or acquired at a premium if the amount payable by the corporation in respect of the redemption or acquisition exceeds,

Premiums on redemption or acquisition of capital stock

- (a) the par value of the share, if it had a par value; or
- (b) if the share had no par value, the proportion of the paid-up capital of the corporation, immediately before the redemption or acquisition of the share, with respect to the class of shares to which the share belongs that 1 is of the number of issued shares of the class immediately before the redemption or acquisition of the share,

and the premium is the amount of the excess.

(4) Notwithstanding anything contained in subsection 1, the undistributed income of a life insurance corporation on hand at any time means the amount that is at the credit of its shareholders' account at that time.

Life insurance corporations

(5) For the purpose of paragraph 1 of subsection 1, "loss" for a fiscal year means a loss computed by applying *mutatis mutandis* the provisions of this Part respecting the computation of the income of the corporation.

Interpretation

(6) Where subsection 1 is being applied to determine the undistributed income on hand of a corporation at a specified time in a fiscal year after a dividend has been deemed by section 55 to have been received from the corporation in the fiscal year, the undistributed income on hand at the specified time is the undistributed income on hand of the corporation determined in accordance with the terms of subsection 1 minus the amount of the dividends that have been so deemed to have been received from the corporation at a previous time in the fiscal year.

Determination



Idem

(7) Where in the case of a corporation referred to in subsection 23 of section 58 as a "predecessor corporation" subsection 1 is being applied to determine the undistributed income of the corporation on hand at any specified time after such time after 1954 as all or substantially all of the property of the corporation described in subsection 23 of section 58 has been acquired as described in that subsection, there shall not be included in the amount or amounts deductible under any paragraph of subsection 1 any amount in respect of expenses incurred by the corporation included in the aggregate determined under clause c of subsection 23 of section 58.

Interpre-  
tation

(8) For the purpose of paragraph 3 of subsection 1,

- (a) where depreciable property of a corporation as defined by subsection 4 of section 32 has been disposed of in 1949 or a subsequent fiscal year, the capital loss arising from the disposition shall be deemed not to be more than the actual capital cost of the property to the corporation minus the capital cost thereof as determined for the purpose of section 32; and
- (b) where depreciable property of a corporation as defined by subsection 4 of section 32 has been disposed of in 1949 or a subsequent fiscal year, the capital profit or gain arising from the disposition shall be deemed not to be more than the proceeds of the disposition as defined in that subsection minus the capital cost of the property to the corporation as determined for the purpose of section 32.

Idem

(9) Where in the calculation of the undistributed income on hand of a corporation at any time there have been included in,

- (a) computing the amount determined by paragraph 5 of subsection 1; or
- (b) computing the amount by which the undistributed income on hand is deemed to be reduced by virtue of subsection 4 of section 55,

amounts that were not included in computing the income of the shareholders but that would have been so included if it were not for section 39, and the aggregate of those amounts exceeds the aggregate of the incomes of the corporation that were by section 39 deemed to have been distributed to its shareholders, the undistributed income of the corporation on hand at that time shall be deemed to be the amount that it would be if the aggregate of the deductions permitted by paragraphs 1 to 5 of subsection 1 were reduced by an amount equal to the excess. R.S.O. 1960, c. 73, s. 55 (1-9).

(10) In the computation of a loss for the purpose of paragraph 1 of subsection 1, there shall not be included a loss sustained by a corporation in its farming business for a fiscal year in respect of which the Minister has determined under section 25 that the chief source of income of the corporation is neither farming nor a combination of farming and some other source of income except to the extent that the loss has been deducted in computing taxable income for a fiscal year under paragraph 3 of subsection 1 of section 37. R.S.O. 1960, c. 73, s. 55 (10); 1968, c. 20, s. 27 (1). Farming loss

(11) Where the Minister has determined under section 25 that the chief source of income of a corporation for a fiscal year is neither farming nor a combination of farming and some other source of income, no expense or disbursement shall be included in the amount deductible under paragraph 2 of subsection 1 if the amount thereof is included in the computation of a loss sustained by the corporation for the fiscal year in its farming business. R.S.O. 1960, c. 73, s. 55 (11); 1968, c. 20, s. 27 (2). Idem

(12) For the purpose of computing the undistributed income on hand of a corporation under subsection 1, the income of the corporation for a fiscal year shall, if subsection 4 of section 57 was applicable in the computation thereof, be deemed to be the amount that it would have been if subsection 4 of section 57 had not been applicable. Mining income

(13) Where more than 50 per cent of the issued share capital of a corporation has, between a time when the corporation ceased to carry on active business and a time when it commenced to carry on active business again, been acquired by a person or persons who did not own any of the shares in the corporation at the time when it so ceased to carry on active business, if the corporation had no undistributed income on hand at the latter time, the reference in subsection 1 to "the fiscal year that ended in 1917" shall be deemed to be a reference to the fiscal year in which the corporation so commenced to carry on active business again. Control acquired of inactive business

(14) A person who has a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation shall be deemed for the purpose of subsection 13 to have acquired the shares at the time he acquired the right. Acquisition of shares

(15) Where all of the assets and liabilities of an insurance corporation incorporated under or pursuant to the laws of a province, hereinafter in this subsection referred to as the "old corporation", have at a time when the corporation had undistributed income on hand been acquired by an insurance corporation incorporated under or pursuant to an Act of the Parliament of Canada, hereinafter in this subsection referred to as the "new corporation", under an arrangement whereby it is contemplated that the new corporation will carry on the business formerly Insurance corporations

carried on by the old corporation, and the paid-up capital of the new corporation was not, at the time of the acquisition of such assets and liabilities, less than the paid-up capital of the old corporation at that time,

- (a) the amount of the dividend deemed by section 55 to have been received at that time by each of the persons who held any of the shares of the old corporation at that time shall be deemed to be the amount otherwise so deemed to have been received at that time by each such person minus the amount paid up on the shares of the old corporation so held by him; and
- (b) the undistributed income of the new corporation on hand immediately after that time as determined under subsection 1 shall be deemed to be the amount otherwise determined thereunder plus the amount of the undistributed income of the old corporation on hand immediately before that time. R.S.O. 1960, c. 73, s. 55 (12-15).

### *Mining*

Interpre-  
tation

#### **57.—**(1) In this section,

- (a) “minerals” does not include petroleum or natural gas;
- (b) “mining property” means a right to prospect, explore or mine for minerals or a property the principal value of which depends upon its mineral content;
- (c) “prospector” means an individual who prospects or explores for minerals or develops a property for minerals on behalf of himself, on behalf of himself and others, or as an employee. R.S.O. 1960, c. 73, s. 56 (1).

Amount not  
included in  
income

(2) An amount that would otherwise be included in computing the income for a fiscal year of a corporation that has, either under an arrangement with the prospector made before the prospecting, exploration or development work or as employer of the prospector, advanced money for, or paid part or all of, the expenses of prospecting or exploring for minerals or of developing a property for minerals, shall not be included in computing the income of the corporation for the fiscal year if it is the consideration for,

- (a) an interest in a mining property acquired under the arrangement under which the corporation made the advance or paid the expenses, or, if the prospector was the employee of the corporation, acquired by the corporation through the employee's efforts; or
- (b) shares of the capital stock of another corporation received by the corporation in consideration for property described in clause *a* that the corporation has disposed of to the corporation issuing the shares,

unless it is an amount received by the corporation in the fiscal year as or on account of a rent, royalty or similar payment. 1966, c. 30, s. 8.

(3) Clause *b* of subsection 2 does not apply,

Non-application

- (a) in the case of a corporation that disposes of the shares while or after carrying on a campaign to sell the shares of the issuing corporation to the public; or
- (b) to shares acquired by the exercise of an option to purchase shares received as consideration for property described in clause *a* of subsection 2.

(4) Subject to the prescribed conditions, there shall not be included in computing the income of a corporation income derived from the operation of a mine during the period of thirty-six months commencing with the day on which the mine came into production. R.S.O. 1960, c. 73, s. 56 (3, 4).

Exemption for three years

(5) In subsection 4,

Interpretation

- (a) “mine” does not include an oil well, gas well, brine well, sand pit, gravel pit, clay pit, shale pit or stone quarry (other than a deposit of oil shale or bituminous sand), but does include a well for the extraction of material from a sylvite deposit and all such wells, the material produced from which is sent to a single plant for processing, shall be deemed to be one mine; and
- (b) “production” means production in reasonable commercial quantities. R.S.O. 1960, c. 73, s. 56 (5); 1967, c. 15, s. 7.

### *Exploration, Prospecting and Development Expenses*

**58.**—(1) A corporation the principal business of which is production, refining or marketing of petroleum, petroleum products or natural gas or exploring or drilling for petroleum or natural gas may deduct in computing its income under this Part for a fiscal year the lesser of,

Deduction from income of petroleum or natural gas corporations

- (a) the aggregate of such of the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada as were incurred during the calendar years 1949 to 1952, to the extent that they were not deductible in computing income for a previous fiscal year; or
- (b) of that aggregate, an amount equal to the income of the corporation for the fiscal year,
  - (i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and
  - (ii) if no deduction were allowed under this section,



minus the deductions allowed for the fiscal year by subsections 23 and 27 of this section and by subsection 1 of section 38. R.S.O. 1960, c. 73, s. 57 (1); 1962-63, c. 26, s. 8 (1).

Deduction  
from income  
of mining  
corporations

(2) A corporation the principal business of which is mining or exploring for minerals may deduct in computing its income under this Part for a fiscal year the lesser of,

- (a) the aggregate of such of the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada as were incurred during the calendar year 1952, to the extent that they were not deductible in computing income of a previous fiscal year; or
- (b) of that aggregate an amount equal to its income for the fiscal year,
  - (i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and
  - (ii) if no deduction were allowed under this section,

minus the deductions allowed for the fiscal year by subsections 23 and 27 of this section and by subsection 1 of section 38,

if the corporation has filed certified statements of such expenses and has satisfied the Minister that it has been actively engaged in prospecting and exploring for minerals in Canada by means of qualified persons and has incurred these expenses for such purposes. R.S.O. 1960, c. 73, s. 57 (2); 1962-63, c. 26, s. 8 (2); 1968, c. 20, s. 28 (1).

Deduction  
from income  
of petroleum  
or natural  
gas  
corporations  
or mining  
corporations

(3) A corporation the principal business of which is,

- (a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas; or
- (b) mining or exploring for minerals,

may deduct in computing its income under this Part for a fiscal year the lesser of,

- (c) the aggregate of such of,
  - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
  - (ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the calendar year 1952 and before the 11th day of April, 1962 to the extent that they were not deductible in computing income for a previous fiscal year; or

(d) of that aggregate, an amount equal to its income for the fiscal year,

(i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and

(ii) if no deduction were allowed under this section,

minus the deductions allowed for the fiscal year by subsections 1, 2, 23 and 27 of this section and by subsection 1 of section 38. R.S.O. 1960, c. 73, s. 57 (3); 1962-63, c. 26, s. 8 (3, 4).

(4) A corporation, other than a corporation described in subsection 3, the principal business of which is production or marketing of sodium chloride or potash or the business of which includes manufacturing products the manufacturing of which involves processing sodium chloride or potash, may deduct, in computing its income under this Part for a fiscal year, the drilling and exploration expenses incurred by it in the fiscal year on or in respect of exploring or drilling for halite or sylvite. 1960-61, c. 14, s. 6.

Halite or  
sylvite  
drilling and  
exploration  
expenses

(5) A corporation the principal business of which is,

Deduction  
from  
income of  
petroleum  
corporation,  
etc.

(a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas;

(b) mining or exploring for minerals;

(c) processing mineral ores for the purpose of recovering metals therefrom;

(d) a combination of,

(i) processing mineral ores for the purpose of recovering metals therefrom, and

(ii) processing metals recovered from the ores so processed;

(e) fabricating metals; or

(f) operating a pipe line for the transmission of oil or natural gas,

may deduct, in computing its income under this Part for a fiscal year, the lesser of,

(g) the aggregate of such of,

(i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and

(ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the 10th day of April, 1962, and before the end of the fiscal year, to the extent that they were not deductible in computing income for a previous fiscal year; or

(h) of that aggregate, an amount equal to its income for the fiscal year,

(i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and

(ii) if no deduction were allowed under this section,

minus the deductions allowed for the fiscal year by subsections 1, 2, 3, 22, 23 and 27 of this section and by subsection 1 of section 38. 1962-63, c. 26, s. 8 (5), *part*; 1964, c. 11, s. 11 (1).

Application  
to pipe line  
corporations

(6) In its application to any corporation described in clause *f* of subsection 5, clause *g* of subsection 5 shall be read and construed as though there were substituted for the expression "10th day of April, 1962", where it appears therein, the expression "13th day of June, 1963". 1964, c. 11, s. 11 (2).

Joint  
exploration  
corporation  
may  
renounce  
expenses

(7) A joint exploration corporation may, in a fiscal year, elect in prescribed form to renounce in favour of another corporation described in subsection 5 an agreed portion of the aggregate of such of,

(a) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the joint exploration corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada; and

(b) the prospecting, exploration and development expenses incurred by the joint exploration corporation in searching for minerals in Canada,

as were incurred by the joint exploration corporation, during a period, after the calendar year 1956 and before the 11th day of April, 1962, throughout which the other corporation was a shareholder corporation, to the extent that the aggregate of such expenses exceeds any amount deductible under subsection 3 in respect thereof by the joint exploration corporation in computing its income for any fiscal year previous to the year in which the election was made, and upon the election the said agreed portion,

(c) shall be deemed, for the purpose of subsection 5, to be expenses described in clauses *a* and *b* incurred by the other corporation in the fiscal year of the corporation in which the election was made; and

(d) shall be subtracted from the aggregate described in clause *c* of subsection 3 in determining the amount deductible by the joint exploration corporation under subsection 3 in computing its income.

(8) A joint exploration corporation may, in a fiscal year, elect <sup>Idem</sup> in prescribed form to renounce in favour of another corporation described in subsection 5 an agreed portion of the aggregate of such of,

- (a) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the joint exploration corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada; and
- (b) the prospecting, exploration and development expenses incurred by the joint exploration corporation in searching for minerals in Canada,

as were incurred by the joint exploration corporation during a period, after the 10th day of April, 1962, and before the end of the fiscal year, throughout which the other corporation was a shareholder corporation, to the extent that the aggregate of such expenses exceeds any amount deductible under subsection 5 in respect thereof by the joint exploration corporation in computing its income for any taxation year previous to the year in which the election was made, and upon the election the said agreed portion,

- (c) shall be deemed, for the purpose of subsection 5, to be expenses described in clauses *a* and *b* incurred by the other corporation in the fiscal year of the corporation in which the election was made; and
- (d) shall be subtracted from the aggregate described in clause *g* of subsection 5 in determining the amount deductible by the joint exploration corporation under subsection 5 in computing its income.

(9) For the purposes of subsections 7 and 8,

Interpre-  
tation

- (a) “joint exploration corporation” means a corporation,
  - (i) whose principal business is of a class described in clause *a* or *b* of subsection 3, and
  - (ii) that has not at any time since its incorporation had more than ten shareholders, not including any individual holding a share for the sole purpose of qualifying as a director;
- (b) a “shareholder corporation” of a joint exploration corporation means a corporation that for the period in respect of which the expression is being applied,
  - (i) was a shareholder of the joint exploration corporation,
  - (ii) was a corporation whose principal business was of the class described in subsection 5, and



- (iii) made payments to the joint exploration corporation in respect of the expenses incurred by the joint exploration corporation referred to in clauses *a* and *b* of subsection 7 or 8, as the case may be; and
- (c) “agreed portion” in respect of a corporation that was a shareholder corporation of a joint exploration corporation means such amount as may be agreed upon between the joint exploration corporation and the other corporation not exceeding,
  - (i) the payments referred to in subclause iii of clause *b* made by the other corporation to the joint exploration corporation during the period it was a shareholder corporation in respect of the expenses incurred by the joint exploration corporation referred to in clauses *a* and *b* of subsection 7 or 8, as the case may be,

minus,

- (ii) the aggregate of the amounts, if any, previously renounced by the joint exploration corporation under subsection 7 or 8, as the case may be, in favour of the other corporation. 1962-63, c. 26, s. 8 (5), *part*.

Deduction  
from  
income of  
corporation

(10) A corporation, other than a corporation described in subsection 5, may deduct, in computing its income under this Part for a fiscal year, the lesser of,

- (a) the aggregate of such of,
  - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
  - (ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the 10th day of April, 1962, and before the end of the fiscal year, to the extent that they were not deductible in computing income for a previous fiscal year; or

- (b) of that aggregate, an amount equal to the aggregate of,
  - (i) its income for the fiscal year from operating an oil or gas well in Canada in which the corporation has an interest,
  - (ii) its income for the fiscal year from royalties in respect of an oil or gas well in Canada, and
  - (iii) any amount included in computing its income for the taxation year by virtue of subsection 16,

if no deductions were allowed under clause *b* of subsection 2 of section 23. 1966, c. 30, s. 9 (1).

(11) In computing a deduction under subsection 1 or 3, no amount shall be included in respect of a payment for or in respect of a right, licence or privilege to explore for, drill for or take petroleum or natural gas, acquired before the 11th day of April, 1962, other than an annual payment not exceeding \$1 per acre. 1964, c. 11, s. 11 (3).

Limitation  
re payments  
for exploration  
and  
drilling  
rights

(12) Where a corporation has, after the 10th day of April, 1962, acquired under an agreement or other contract or arrangement a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, under which agreement, contract or arrangement there was not acquired any other right to, over or in respect of the land in respect of which such right, licence or privilege was so acquired except the right,

Exploration  
and drilling  
rights,  
payments  
deductible

- (a) to explore for, drill for or take materials and substances, whether liquid or solid and whether hydrocarbons or not, produced in association with the petroleum, natural gas or other related hydrocarbons, except coal, or found in any water contained in an oil or gas reservoir; or
- (b) to enter upon, use and occupy so much of the land as may be necessary for the purpose of exploiting such right, licence or privilege,

an amount paid in respect of the acquisition thereof shall, for the purposes of subsections 5, 8 and 10, be deemed to be a drilling or exploration expense on or in respect of exploring or drilling for petroleum or natural gas in Canada incurred at the time of such payment.

(13) In its application for the purposes of subsection 8, subsection 12 shall be read and construed as though there were substituted for the expression "after the 10th day of April, 1962", where that expression appears therein, the expression "after the 10th day of April, 1962, and before the 27th day of April, 1965". 1966, c. 30, s. 9 (2).

Idem

(14) Where a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, is disposed of after the 10th day of April, 1962 and before the 23rd day of October, 1968,

Receipts for  
exploration  
or drilling  
rights  
included in  
income

- (a) by a corporation described in subsection 5; or
- (b) by a corporation, other than a corporation described in subsection 5, that was at the time of acquisition of such right, licence or privilege a corporation described in subsection 5,

any amount received by the corporation as consideration for the disposition thereof shall be included in computing its income for its fiscal year in which the amount was received unless the corporation acquired such right, licence or privilege before the 11th day of April, 1962, and disposed of it before the 9th day of November, 1962. 1966, c. 30, s. 9 (3); 1970, c. 69, s. 15 (1).

Idem

(15) Where a right, licence or privilege described in subsection 14 was disposed of after the 22nd day of October, 1968,

- (a) by a corporation described in subsection 5; or
- (b) by a corporation, other than a corporation described in subsection 5, that was at the time of acquisition of such right, licence or privilege a corporation described in subsection 5,

the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing its income for its fiscal year in which the disposition was made, notwithstanding that the amount or any part thereof may not be received until a subsequent fiscal year.

Idem

(16) Where a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, that was acquired after the 10th day of April, 1962, by a corporation other than a corporation described in subsection 5 is subsequently disposed of,

- (a) before the 23rd day of October, 1968, any amount received by the corporation as consideration for the disposition thereof shall be included in computing its income for the fiscal year of the corporation in which the amount was received; or
- (b) after the 22nd day of October, 1968, the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing its income for the fiscal year of the corporation in which the disposition was made, notwithstanding that the amount or any part thereof may not be received until a subsequent fiscal year.

Idem

(17) Subsections 14, 15 and 16 do not apply to any disposition by a corporation of any right, licence or privilege described in subsection 12 or 14 unless such right, licence or privilege was acquired by the corporation under an agreement, contract or arrangement described in subsection 12. 1970, c. 69, s. 15 (2).

Idem

(18) For the purposes of subsections 14, 15 and 16,

- (a) where a corporation has disposed of any interest in land that includes a right, licence or privilege described in subsection 12 that was acquired under an agreement, contract or arrangement described in that subsection,

the proceeds of disposition of such interest shall be deemed to be proceeds of disposition of the right, licence or privilege; and

- (b) where a corporation has acquired a right, licence or privilege described in subsection 12 under an agreement, contract or arrangement described in that subsection and subsequently disposes of any interest,
  - (i) in such right, licence or privilege, or
  - (ii) in the production of wells situated on the land to which such right, licence or privilege relates,

the proceeds of disposition of such interest shall be deemed to be the proceeds of disposition of the right, licence or privilege. 1962-63, c. 26, s. 8 (6), *part*; 1970, c. 69, s. 15 (3).

(19) Subsections 10 and 16 do not apply in computing the *Idem* income for a fiscal year under this Part of a corporation the business of which includes trading or dealing in rights, licences or privileges to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal. 1966, c. 30, s. 9 (4), *part*.

(20) Notwithstanding subsection 11, where a corporation the *Bonus payments* principal business of which is of the class described in clause *a* or *b* of subsection 3 has after 1952 paid an amount, other than a rental or royalty, to the Government of Canada or of a province for,

- (a) the right to explore for petroleum or natural gas on a specified parcel of land in Canada, which right is, for greater certainty, declared to include a right of the type commonly referred to as a "licence", "permit" or "reservation"; or
- (b) a legal lease of the right to take or remove petroleum or natural gas from a specified parcel of land in Canada,

and acquired the rights, before the 11th day of April, 1962, in respect of which the amount was so paid and the corporation has, before any well came into production on the land in reasonable commercial quantities, surrendered all the rights so acquired, including, in respect of a right of the kind described in clause *a*, all rights thereunder to any lease and all rights under any lease made thereunder, without receiving any consideration therefor or repayment of any part of the amount so paid, the amount so paid shall, for the purpose of subsection 5 or 8, be deemed to have been an expense incurred by the corporation as a drilling or exploration expense on or in respect of exploring or drilling for petroleum or natural gas in Canada during the fiscal year in which its rights were so surrendered. R.S.O. 1960, c. 73, s. 57 (5); 1962-63, c. 26, s. 8 (7); 1968-69, c. 19, s. 15.



Expenses  
incurred for  
specified  
considera-  
tions not  
deductible

(21) For the purpose of this section, it is hereby declared that expenses incurred by a corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada or in searching for minerals in Canada do not and never did include expenses so incurred by that corporation pursuant to an agreement under which it undertook to incur those expenses in consideration for,

- (a) shares of the capital stock of a corporation that owned or controlled the mineral rights;
- (b) an option to purchase shares of the capital stock of a corporation that owned or controlled the mineral rights; or
- (c) a right to purchase shares of the capital stock of a corporation that was to be formed for the purpose of acquiring or controlling the mineral rights. R.S.O. 1960, c. 73, s. 57 (6).

Exception

(22) Notwithstanding subsection 21, a corporation the principal business of which is,

- (a) production, refining or marketing of petroleum, petroleum products or natural gas and exploring or drilling for petroleum or natural gas; or
- (b) mining or exploring for minerals,

may deduct in computing its income under this Part for a fiscal year the lesser of,

- (c) the aggregate of such of,
  - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by it on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
  - (ii) the prospecting, exploration and development expenses incurred by it in searching for minerals in Canada,

as were incurred after the calendar year 1953 and before the end of the fiscal year,

- (iii) pursuant to an agreement under which it undertook to incur those expenses for a consideration mentioned in clause *a*, *b* or *c* of subsection 21, and
- (iv) to the extent that they were not deductible in computing income for a previous fiscal year; or
- (d) of that aggregate, an amount equal to its income for the fiscal year,
  - (i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and
  - (ii) if no deduction were allowed under subsection 5 or this subsection,

minus any deduction allowed for the fiscal year by subsection 1 of section 38,

but where a corporation has incurred expenses the deduction of which from income for a fiscal year is authorized by this subsection, no deduction in respect of those expenses may be made under this section in computing the income of any other corporation for that or any other fiscal year. R.S.O. 1960, c. 73, s. 57 (7); 1962-63, c. 27, s. 8 (8).

(23) Notwithstanding subsection 22, where a corporation, hereinafter in this subsection and in subsection 24 referred to as the "successor corporation", the principal business of which is, Property acquired by successor corporation

- (a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas; or
- (b) mining or exploring for minerals,

has, at any time after 1954, acquired from a corporation, hereinafter in this subsection and in subsection 24 referred to as the "predecessor corporation", the principal business of which was production, refining or marketing of petroleum, petroleum products or natural gas, exploring or drilling for petroleum or natural gas, or mining or exploring for minerals, all or substantially all of the property of the predecessor corporation used by it in carrying on that business in Canada, there may be deducted by the successor corporation in computing its income under this Part for a fiscal year the lesser of,

- (c) the aggregate of,
  - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the predecessor corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
  - (ii) the prospecting, exploration and development expenses incurred by the predecessor corporation in searching for minerals in Canada,

to the extent that such expenses,

- (iii) were not deductible by the successor corporation in computing its income for a previous fiscal year and were not deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation or its income for a previous fiscal year, and
- (iv) would, but for the provisions of clause *b* of subsection 1, clause *b* of subsection 2, clause *d* of subsection 3, clause *h* of subsection 5 and clause *d* of

subsection 22, or of any of those clauses or this subsection, have been deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation; or

- (d) of that aggregate, an amount equal to such part of its income for the year,
  - (i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and
  - (ii) if no deduction were allowed under this section,

minus any deduction allowed for the fiscal year by subsection 1 of section 38, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property from which the predecessor corporation had, immediately before the acquisition by the successor corporation of the property so acquired, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *c*, no deduction may be made under this section by the predecessor corporation in computing its income for a fiscal year subsequent to the fiscal year in which the property so acquired was acquired by the successor corporation. R.S.O. 1960, c. 73, s. 57 (8); 1961-62, c. 23, s. 19 (1), cls. (*a*, *b*); 1962-63, c. 26, s. 8 (9-11).

Application  
of subs. 23

(24) In applying the provisions of subsection 23 to determine the amount that may be deducted by a successor corporation in computing its income under this Part for a fiscal year, where the predecessor corporation has paid an amount other than a rental or royalty to the government of Canada or of a province for,

- (a) the right to explore for petroleum or natural gas on a specified parcel of land in Canada which right is, for greater certainty, declared to include a right of the type commonly referred to as a "licence", "permit" or "reservation"; or
- (b) a legal lease of the right to take or remove petroleum or natural gas from a specified parcel of land in Canada,

if, before the predecessor corporation was entitled, by virtue of subsection 20, to any deduction in computing its income for a fiscal year in respect of the amount so paid, the property of the predecessor corporation was acquired by the successor corporation before the 11th day of April, 1962 in the manner set out in subsection 23, and the successor corporation did, before any well came into production in reasonable commercial quantities, on the

land referred to in clause *a* or *b* surrender all the rights so acquired by the predecessor corporation including, in respect of a right of the kind described in clause *a*, all rights thereunder to any lease and all rights under any lease made thereunder without receiving any consideration therefor or payment of any part of the amount so paid by the predecessor corporation, the amount so paid by the predecessor corporation shall be added to the amount determined under clause *c* of subsection 23. 1961-62, c. 23, s. 19 (2); 1962-63, c. 26, s. 8 (12).

(25) A reference in subsection 3, 20, 22 or 23 to a corporation, the principal business of which is mining or exploring for minerals, shall, for the purposes of this section and subsection 7 of section 56, be deemed to include a reference to a corporation, the principal business of which is, Processing corporations

- (a) processing mineral ores for the purpose of recovering metals therefrom;
- (b) a combination of,
  - (i) processing mineral ores for the purpose of recovering metals therefrom, and
  - (ii) processing metals recovered from the ores so processed; or
- (c) fabricating metals,

but, in making applicable this section and subsection 7 of section 56 to any such corporation, there shall be substituted,

- (d) for the references, respectively, in subsections 3, 20, 22 and 23 to the years 1952, 1952, 1953, and 1954, a reference in each case to the year 1956; and
- (e) for the reference in subsection 7 of section 56 to the year 1954, a reference to the year 1956. 1961-62, c. 23, s. 19 (3).

(26) For the purposes of this section and section 66, "drilling and exploration expenses" incurred on or in respect of exploring or drilling for petroleum or natural gas in Canada includes expenses incurred on or in respect of, Extended meaning of "drilling and exploration expenses"

- (a) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well in Canada;
- (b) drilling for water or gas for injection into a petroleum or natural gas formation in Canada; and
- (c) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well in Canada. R.S.O. 1960, c. 73, s. 57 (10).



Property  
acquired  
by second  
successor  
corporation

(27) Notwithstanding subsection 22, where a corporation, hereinafter in this subsection referred to as the “second successor corporation”, whose principal business is of the class described in subsection 5, has at any time after the 10th day of April, 1962, acquired from a corporation, hereinafter in this subsection referred to as the “first successor corporation”, that was a successor corporation within the meaning of subsection 23, all or substantially all of the property of the first successor corporation used by it in carrying on in Canada its principal business, there may be deducted by the second successor corporation, in computing its income under this Part for a fiscal year, the lesser of,

- (a) the aggregate determined by adding the expenses referred to in subclauses i and ii of clause *c* of subsection 23 for the purpose of determining the deduction allowable to the first successor corporation under subsection 23 in computing its income for a previous fiscal year, to the extent that such expenses,
  - (i) were not deductible by the second successor corporation or any other corporation in computing its income for a previous fiscal year, and were not deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation, and
  - (ii) would, but for the provisions of clause *d* of subsection 23, have been deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation; or
- (b) of that aggregate, an amount equal to such part of its income for the fiscal year,
  - (i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and
  - (ii) if no deduction were allowed under this section,

minus any deduction allowed for the fiscal year by subsection 1 of section 38, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property from which the predecessor of the first successor corporation within the meaning of subsection 23 had, immediately before the acquisition by the first successor corporation of the property so acquired by the second successor corporation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *a*, no deduction may be made under this section by the first successor corporation in computing its income for a fiscal year subsequent to its fiscal year in which the property so acquired was acquired by the second successor corporation. 1962-63, c. 26, s. 8 (13).

(28) For the purpose of this section and section 66, there shall be deducted in computing,

- (a) drilling and exploration expenses incurred by a corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada; and
- (b) prospecting, exploration and development expenses incurred by a corporation in searching for minerals in Canada,

Extended meaning of drilling and exploration expenses and prospecting, exploration and development expenses

subject to the approval of the Minister, any amount paid to the corporation under the *Northern Mineral Exploration Assistance Regulations* (Canada) made under an *Appropriation Act* (Canada) that provides for payments in respect of the Northern Mineral Grants Program, and there shall be included in computing such expenses, any amount, except an amount in respect of interest, paid by the corporation under the *Northern Mineral Exploration Assistance Regulations* (Canada) to Her Majesty in right of Canada. 1968, c. 20, s. 28 (2).

(29) For the purposes of this section and section 66, "drilling and exploration expenses" incurred on or in respect of exploring or drilling for petroleum or natural gas in Canada includes an annual payment made for the preservation of a right, licence or privilege described in subsection 12. 1966, c. 30, s. 9 (4), *part*.

Drilling and exploration expenses

(30) Where a corporation has incurred expenses that may be deducted from income under more than one provision of this section, it is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction.

General limitation

(31) Where expenses are or have been under this section or corresponding sections of Acts referred to in subsection 12 of section 83A of the *Income Tax Act* (Canada) deductible from or in computing the income of the corporation, or where any amount is or has been deductible in respect of the expenses under any of those provisions from taxes otherwise payable, it is hereby declared that no amount in respect of the same expenses is or has been deductible under any other authority in computing the income or from the income of that corporation or any other corporation for that fiscal year or any other fiscal year. R.S.O. 1960, c. 73, s. 57 (11, 12).

Expenses deductible under certain enactments deemed not otherwise deductible R.S.C. 1952, c. 148

*Crown Corporations*

Application  
of Act to  
certain cor-  
porations

**59.**—(1) Where a corporation to which the exemptions provided by subsection 42 of section 5 and the specially reduced tax provided by subsection 18 of section 6 would otherwise apply is prescribed by regulation, such exemptions and specially reduced tax do not apply. R.S.O. 1960, c. 73, s. 58 (1); 1968-69, c. 18, s. 8.

Idem

(2) Where a corporation prescribed in the regulations has acquired depreciable property before the commencement of the first fiscal year commencing after 1951, for the purpose of section 32 and the regulations made under clause *a* of subsection 2 of section 23, that property shall be deemed to have been acquired at a capital cost equal to the amount that according to the books of the corporation was its value at the commencement of that fiscal year.

Previous  
income and  
losses

(3) For the purpose of computing a deduction under paragraph 3 of subsection 1 of section 37, a corporation prescribed in the regulations shall be deemed not to have had income or a loss for a fiscal year before the first fiscal year commencing after 1951.

Interpre-  
tation

(4) Where land has been transferred to a corporation prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation. R.S.O. 1960, c. 73, s. 58 (2-4).

*Railway Companies*

Capital cost  
of certain  
property

**60.**—(1) Notwithstanding subsection 2 of section 59, where property of the following description, namely,

- (a) railway track or railway track grading; or
- (b) a crossing,

has before 1956 been acquired by a corporation, that property shall for the purposes of section 32 and the regulations made under clause *a* of subsection 2 of section 23 be deemed to have been acquired at a capital cost equal to the amount that according to the books of the corporation was its value at the close of its fiscal year ending in 1955.

Idem

(2) For the purpose of this section, in determining the amount that according to the books of the corporation was the value of any property at the close of its fiscal year ending in 1955, no amount shall be included in respect of property that at that time was leased from any other person. R.S.O. 1960, c. 73, s. 59 (1, 2).

Repairs,  
replace-  
ments, etc.

(3) Where any amount in respect of an expenditure incurred by a corporation on or in respect of the repair, replacement, alteration or renovation of depreciable property of the corpora-

tion of a class prescribed by the regulations made for the purpose of this section is, under any uniform classification and system of accounts and returns prescribed by the Canadian Transport Commission pursuant to the *Railway Act* (Canada), required to be entered in the books of the corporation otherwise than as an expense,

R.S.C. 1952,  
c. 234

- (a) no deduction may be made in respect of that expenditure in computing the income of the corporation for a fiscal year; and
- (b) for the purpose of section 32 and the regulations made under clause *a* of subsection 2 of section 23, the corporation shall be deemed to have acquired at the time the expenditure was incurred depreciable property of that class at a capital cost equal to that amount. R.S.O. 1960, c. 73, s. 59 (3); 1967, c. 15, s. 8 (1).

(4) In this section, “crossing” means any railway crossing of a highway, or any highway crossing of a railway, and every manner of construction of the railway or of the highway by the elevation or depression of the one above or below the other, or by the diversion of one or the other, and any work ordered or authorized by the Canadian Transport Commission to be provided as one work for the protection, safety and convenience of the public in respect of one or more railways of as many tracks crossing or so crossed as the Canadian Transport Commission in its discretion determines. R.S.O. 1960, c. 73, s. 59 (4); 1967, c. 15, s. 8 (2).

Interpre-  
tation

### *Special Reserves*

**61.**—(1) In computing the income of a corporation for a fiscal year,

Special  
reserves

- (a) every amount received in the fiscal year in the course of a business,
  - (i) that is on account of services not rendered or goods not delivered before the end of the fiscal year or that for any other reason may be regarded as not having been earned in the fiscal year or a previous fiscal year, or
  - (ii) under an arrangement or understanding that it is repayable in whole or in part on the return or resale to the corporation of articles in or by means of which goods were delivered to a customer,

shall be included;

- (b) every amount receivable in respect of property sold or services rendered in the course of the business in the fiscal year shall be included notwithstanding that the amount is not receivable until a subsequent fiscal year unless the method adopted by the corporation for



computing income from the business and accepted for the purpose of this Part does not require the corporation to include any amount receivable in computing its income for a fiscal year unless it has been received in that fiscal year;

- (c) subject to subsection 3, where amounts of a class described in subclause i or ii of clause *a* have been included in computing the income of a corporation from a business for the fiscal year or a previous fiscal year, there may be deducted a reasonable amount as a reserve in respect of,
  - (i) goods that it is reasonably anticipated will have to be delivered after the end of the fiscal year,
  - (ii) services that it is reasonably anticipated will have to be rendered after the end of the fiscal year,
  - (iii) periods for which rent or other amounts for the possession or use of land or chattels have been paid in advance, or
  - (iv) repayments under arrangements or understandings of the class described in subclause ii of clause *a* that it is reasonably anticipated will have to be made after the end of the fiscal year on the return or resale to the corporation of articles other than bottles;
- (d) where an amount has been included in computing the income of a corporation from its business for the fiscal year or for a previous fiscal year in respect of property sold in the course of the business and that amount or a part thereof is not receivable,
  - (i) where the property sold is property other than land, until a day that is,
    - (A) more than two years after the day on which the property was sold, and
    - (B) after the end of the fiscal year, or
  - (ii) where the property sold is land, until a day that is after the end of the fiscal year,

there may be deducted a reasonable amount as a reserve in respect of that part of the amount so included in computing the income that can reasonably be regarded as a portion of the profit from the sale;

- (e) where pursuant to subsection 15 or 16 of section 58, an amount has been included in computing the corporation's income for the fiscal year or for a previous fiscal year in respect of the disposition after the 22nd day of October, 1968, of a right, licence or privilege described in that subsection and that amount or a part thereof is not

receivable until a day that is after the end of the fiscal year, there may be deducted as a reserve in respect of that amount the part thereof that is not receivable until a day that is after the end of the fiscal year, and no deduction may be made in respect of that amount by virtue of clause *d*; and

- (*f*) there shall be included the amounts deducted under clauses *c*, *d* and *e* in computing the income of the corporation for the immediately preceding fiscal year. R.S.O. 1960, c. 73, s. 60 (1); 1961-62, c. 23, s. 20 (1); 1970, c. 69, s. 16 (1).

(2) Clauses *a* and *b* of subsection 1 are enacted for greater certainty and shall not be construed as implying that any amount not referred to therein is not to be included in computing the income from a business for a fiscal year whether or not it is received or receivable in the fiscal year. Interpretation

(3) Where an amount is deductible in computing income for a fiscal year under clause *c* of subsection 1 as a reserve in respect of, Special reserves

- (*a*) articles of food or drink that it is reasonably anticipated will have to be delivered after the end of the fiscal year; or  
(*b*) transportation that it is reasonably anticipated will have to be provided after the end of the fiscal year,

there shall be substituted for the amount determined thereunder an amount not exceeding the aggregate of the amounts included in computing the income of the corporation from the business for the fiscal year that were received or receivable, depending upon the method regularly followed by the corporation in computing its profit, in the fiscal year in respect of,

- (*c*) articles of food or drink not delivered before the end of the fiscal year; or  
(*d*) transportation not provided before the end of the fiscal year,

as the case may be.

(4) Clause *c* of subsection 1 does not apply to allow a deduction as a reserve in respect of guarantees, indemnities or warranties. R.S.O. 1960, c. 73, s. 60 (2-4). Exception

(5) Clause *c* of subsection 1 does not apply to allow a deduction to an insurance agent or broker in respect of unearned commissions, but a corporation may in computing its income from a business as an insurance agent or a broker for a fiscal year deduct as a reserve in respect of unearned commissions an amount equal to the proportion of an amount that has been included in Unearned commission

computing its income for the fiscal year or a previous fiscal year as a commission in respect of an insurance contract, other than a life insurance contract, that,

- (a) the number of days in that portion of the period provided for in the insurance contract that is after the end of the fiscal year,

is of,

- (b) the whole of that period.

"Cash"  
method of  
computing  
income

(6) Clause *c* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in any case where the income of the corporation for the fiscal year from that business is computed in accordance with the method authorized by subsection 1 of section 64. R.S.O. 1960, c. 73, s. 60 (6, 7).

No deduc-  
tion in  
respect of  
sale of  
property  
in certain  
circum-  
stances

(7) Clause *d* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in respect of property sold in the course of business where the corporation ceases to have a permanent establishment or becomes exempt from tax under any provision of this Act at any time in the fiscal year or in the immediately following fiscal year. 1968, c. 20, s. 29 (1).

Idem

(8) Clause *e* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year where the corporation, at any time in the fiscal year or in the immediately following fiscal year,

- (a) ceases to have a permanent establishment in Canada;
- (b) becomes exempt from tax under any provision of this Act; or
- (c) if incorporated outside Canada ceases to be liable for the income taxes imposed under the Act. 1970, c. 69, s. 16 (3).

Disposal of  
security  
where  
reserve  
re sale of  
property

(9) No corporation shall sell, pledge, assign or in any way dispose of any security received by it as payment in whole or in part for any property sold by it, where the corporation has set up a reserve in respect of the sale of the property under this section unless the corporation has provided the Minister, in writing, with the names of the purchaser, pledgee or assignee and with the amount of cash to be received by the corporation for the security. 1968, c. 20, s. 29 (2).

Interpre-  
tation

(10) For the purpose of clause *f* of subsection 1, an amount determined under subsection 3 or an amount deducted under

subsection 5 shall be deemed to have been deducted under clause *c* of subsection 1. R.S.O. 1960, c. 73, s. 60 (8).

*Accounts Receivable*

**62.—**(1) Where a person who has been carrying on a business has, in a fiscal year, sold all or substantially all the property used in carrying on the business, including the debts that have been or will be included in computing his income for that fiscal year or a previous fiscal year and that are still outstanding, and including the debts arising from loans made in the ordinary course of his business if part of his ordinary business was the lending of money and that are still outstanding, to a purchaser who proposes to continue the business which the vendor has been carrying on, if the vendor and the purchaser have executed jointly an election in prescribed form to have this section apply, the following rules are applicable:

Sale of  
accounts  
receivable

1. There may be deducted in computing the income of the vendor for the fiscal year an amount equal to the difference between the face value of the debts so sold, other than debts in respect of which the vendor has made deductions under clause *m* of subsection 1 of section 23 and the consideration paid by the purchaser to the vendor for the debts so sold.
2. An amount equal to the difference described in paragraph 1 shall be included in computing the income of the purchaser for the fiscal year.
3. The debts so sold shall be deemed for the purpose of clauses *k* and *m* of subsection 1 of section 23 to have been included in computing the income of the purchaser for the fiscal year or a previous fiscal year, but no deduction may be made by the purchaser under clause *m* of subsection 1 of section 23 in respect of a debt in respect of which the vendor has previously made a deduction.
4. Each amount deducted by the vendor in computing income for a previous fiscal year under clause *m* of subsection 1 of section 23 in respect of any of the debts so sold shall be deemed for the purpose of clause *k* of section 17 to have been so deducted by the purchaser. R.S.O. 1960, c. 73, s. 61 (1); 1965, c. 22, s. 13.

(2) An election executed for the purpose of subsection 1 shall contain a statement by the vendor and the purchaser jointly as to the consideration paid for the debts sold by the vendor to the purchaser and that statement is, as against the Minister, binding upon the vendor and the purchaser in so far as it may be relevant

Statement  
by vendor  
and  
purchaser



in respect of any matter arising under this Act. R.S.O. 1960, c. 73, s. 61 (2); 1968, c. 20, s. 30.

*Sale of Inventory*

Sale of  
inventory

**63.**—(1) Where upon or after disposing of or ceasing to carry on a business or a part of a business a corporation has sold all or any part of the property that was included in the inventory of the business, the property so sold shall for the purposes of this Part be deemed to have been sold by the corporation,

- (a) during the last fiscal year in which the corporation carried on the business or part of the business; and
- (b) in the course of carrying on the business. R.S.O. 1960, c. 73, s. 62 (1).

Agreement  
as to price  
paid by  
vendor and  
purchaser

(2) Where a person who has been carrying on a business has sold all or part of the property that was included in the inventory of the business, whether or not he has disposed of or ceased to carry on that business or a part of that business, to a person who has used all or part of the property so sold as inventory of a business carried on or to be carried on by the purchaser, and the amount of the consideration paid by the purchaser is, in part, consideration for the property so sold and, in part, consideration for something else, the following applies:

- 1. Such part of the consideration as the vendor and the purchaser have in writing agreed to be the price paid for the property so sold shall be deemed, both for the purpose of computing income from the business of the vendor and for the purpose of computing income from the business of the purchaser, to be the price so paid.
- 2. Where an agreement as contemplated by paragraph 1 has not been filed with the Minister within sixty days after notice in writing by the Minister has been forwarded to the vendor and the purchaser that such an agreement is required for the purpose of any assessment of tax under this Act, such part of the consideration paid as is fixed by the Minister shall be deemed to be the price agreed upon by them as the price paid for the properties so sold. R.S.O. 1960, c. 73, s. 62 (2); 1968, c. 20, s. 31.

Reference  
to property  
included in  
inventory

(3) A reference in this section to property that was included in the inventory of a business shall be deemed to include a reference to property that would have been so included if the income from the business had not been computed in accordance with the method authorized by subsection 1 of section 64. R.S.O. 1960, c. 73, s. 62 (3).

*Special Method of Computing Income: Sale of Accounts  
Receivable*

**64.**—(1) For the purpose of computing the income of a corporation for a fiscal year from a business of the following description, namely,

Cash method  
may be used  
by corpora-  
tion in  
business of  
farming or  
profession

- (a) farming; or
- (b) a profession,

the income from the business for that fiscal year shall, if the corporation so elects under subsection 1 of section 85F of the *Income Tax Act* (Canada), be computed in accordance with a method (hereinafter in this section referred to as the “cash” method) whereby the income therefrom for that fiscal year shall be deemed to be an amount equal to,

R.S.C. 1952,  
c. 148

- (c) the aggregate of all amounts that,
  - (i) were received in the fiscal year, or are deemed by this Act to have been received in the fiscal year, in the course of carrying on the business, and
  - (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be included in computing income therefrom for that or any other fiscal year,

minus,

- (d) the aggregate of all amounts that,
  - (i) were paid in the fiscal year, or are deemed by this Act to have been paid in the fiscal year, in the course of carrying on the business, and
  - (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be deductible in computing income therefrom for that or any other fiscal year,

and minus any deduction for the fiscal year permitted by clause a of subsection 2 of section 23. 1965, c. 22, s. 14 (1).

(2) Subsection 1 does not apply for the purpose of computing the income of a corporation for a fiscal year from a business carried on by it jointly with one or more other persons, unless each of the other persons by whom the business is jointly carried on has elected to have his income from the business for that fiscal year computed in accordance with the method authorized by subsection 1 of section 85F of the *Income Tax Act* (Canada). R.S.O. 1960, c. 73, s. 63 (2). Exception

Cash method  
must be  
used in  
subsequent  
fiscal years

(3) Where a corporation has filed a return under this Act for a fiscal year wherein its income for that fiscal year from a business described in subsection 1 has been computed in accordance with the method authorized by that subsection, income from the business for a subsequent fiscal year shall, subject to other provisions of this Part, be computed in accordance with that method unless the corporation, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, adopts some other method. 1965, c. 22, s. 14 (2), *part*; 1968, c. 20, s. 32.

When  
corporation  
ceases to  
carry on  
business in  
Canada,  
accounts  
receivable  
added to  
income of  
last fiscal  
year

(4) Where a corporation that, at a time when it was a resident of Canada, carried on a business the income from which was computed in accordance with the method authorized by subsection 1 has, upon or after disposing of or ceasing to carry on the business or a part of the business, ceased to be a resident of Canada in a fiscal year, an amount equal to the value, at the time it ceased to be a resident of Canada, of,

- (a) such part of the property that would have been included in the inventory of the business or the part of the business if the income from the business had not been computed in accordance with the method authorized by subsection 1 as remained the property of the corporation at the time it ceased to be a resident of Canada; and
- (b) such part of amounts outstanding at the time it ceased to be a resident of Canada as or on account of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing its income for the fiscal year if the amounts had been received by it in the fiscal year at a time when it was a resident of Canada,

shall be included in computing its income. 1965, c. 22, s. 14 (2), *part*.

Accounts  
receivable

(5) There shall be included in computing the income of a corporation for a fiscal year such part of an amount received by it in the fiscal year, upon or after disposing of or ceasing to carry on a business or part of a business, for, on account or in lieu of payment of, or in satisfaction of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing the income of the corporation for the fiscal year had the amount so received been received by it in the course of carrying on the business. R.S.O. 1960, c. 73, s. 63 (4).

#### *Mortgage Reserves*

Special  
mortgage  
reserve

**65.** In computing the income for a fiscal year of a corporation whose business includes the lending of money on the security of a mortgage, hypothec or agreement of sale of real property,

- (a) there shall be deducted and allowed as a reserve the same amount as is deducted and allowed for each fiscal year under clause *a* of section 85G of the *Income Tax Act* (Canada); and R.S.C. 1952,  
c. 148
- (b) there shall be included the same amount as is included for each fiscal year under clause *b* of section 85G of the *Income Tax Act* (Canada). 1970, c. 69, s. 17.

### *Amalgamation of Corporations*

**66.**—(1) In this section, an amalgamation of two or more corporations means a merger of such corporations, each of which is in this section referred to as a “predecessor corporation”, to form one corporate entity in this section referred to as the “new corporation”, in such manner that, Interpre-  
tation

- (a) all of the property of the predecessor corporations immediately before the amalgamation becomes property of the new corporation by virtue of the amalgamation;
- (b) all of the liabilities of the predecessor corporations immediately before the amalgamation become liabilities of the new corporation by virtue of the amalgamation; and
- (c) all of the shareholders, except a predecessor corporation, of the predecessor corporations immediately before the amalgamation become shareholders of the new corporation by virtue of the amalgamation,

otherwise than as a result of the acquisition of property of one corporation by another corporation pursuant to the purchase of such property by the other corporation or as the result of the distribution of such property to the other corporation upon the winding-up of the corporation. R.S.O. 1960, c. 73, s. 65 (1); 1960-61, c. 14, s. 7 (1).

(2) Where there has been an amalgamation of two or more corporations, the following applies: Rules  
applicable

1. For the purposes of this Act, the first fiscal year of the new corporation shall be deemed to have commenced at the time of the amalgamation, and a fiscal year of a predecessor corporation that would otherwise have ended after the amalgamation shall be deemed to have ended immediately before the amalgamation. Fiscal  
year of  
corporation
2. For the purpose of computing the income of the new corporation for its first fiscal year, where the property described in its inventory, if any, at the commencement of that fiscal year includes, Inventory



- (a) property that was described in the inventory of a predecessor corporation at the end of its fiscal year that ended immediately before the amalgamation, which fiscal year is in this section referred to as its "last fiscal year"; or
- (b) property that would have been described in the inventory of the predecessor corporation at the end of its last fiscal year if its income for that fiscal year had not been computed in accordance with the method authorized by subsection 1 of section 64,

the property so included shall be deemed to have been acquired by the new corporation at the commencement of its first fiscal year for an amount determined in accordance with section 26 as the value thereof for the purpose of computing the income of the predecessor corporation for its last fiscal year, except that, where the income of the predecessor corporation for its last fiscal year was computed in accordance with the method authorized by subsection 1 of section 64, the amount so determined shall be deemed to be nil.

Method  
adopted for  
computing  
income

3. Where the method adopted by the new corporation for computing its income for a fiscal year is not the same as the method adopted by a predecessor corporation for computing its income for its last fiscal year or a previous fiscal year, in computing the income of the new corporation for that fiscal year,
  - (a) there shall be included any amount received by it in that fiscal year in payment of or on account of a debt owing to the predecessor corporation that would, if it had been received by the predecessor corporation in its last fiscal year, have been included in computing the income of the predecessor corporation for that fiscal year; and
  - (b) there may be deducted any amount paid by it in that fiscal year in payment of or on account of a debt owing by the predecessor corporation that would, if it had been paid by the predecessor corporation in its last fiscal year, have been deductible in computing the income of the predecessor corporation for that fiscal year. R.S.O. 1960, c. 73, s. 65 (2), pars. 1-3.

Capital cost,  
etc., of  
depreciable  
property

4. For the purpose of clause *a* of subsection 2 of section 23 and section 32,
  - (a) where depreciable property is acquired by the new corporation from a predecessor corporation, the capital cost of the depreciable property to the new corporation shall be deemed to be the amount that

was the capital cost thereof to the predecessor corporation; and

- (b) in determining the undepreciated capital cost to the new corporation of depreciable property of a prescribed class at any time,

- (i) there shall be added to the capital cost to the new corporation of depreciable property of that class acquired before that time the undepreciated capital cost to each of the predecessor corporations of depreciable property of that class immediately before the amalgamation,
- (ii) there shall be subtracted from the capital cost to the new corporation of depreciable property of that class acquired before that time the capital cost to the new corporation of depreciable property of that class acquired by virtue of the amalgamation,
- (iii) a reference in subclause ii of clause *a* of subsection 6 of section 32 to amounts that would have been allowed to a corporation in respect of transferred property, at the rate that was allowed to the corporation in respect of property of a prescribed class, shall be construed as including a reference to amounts that would have been allowed to a predecessor corporation in respect of that property at the rate that was allowed to the predecessor corporation in respect of property of that prescribed class, and
- (iv) where depreciable property that is deemed by subsection 7 of section 46 to be of a separate prescribed class is acquired by the new corporation from a predecessor corporation, the property shall continue to be deemed to be of that same separate prescribed class. R.S.O. 1960, c. 73, s. 65 (2), par. 4; 1960-61, c. 14, s. 7 (2); 1961-62, c. 23, s. 22 (1).

5. For the purpose of computing the income of the new corporation for a fiscal year, Reserves

- (a) any amount that has been deducted as a reserve under clause *k* of subsection 1 of section 23, section 61 or section 65 in computing the income of a predecessor corporation for its last fiscal year shall be deemed to have been deducted as a reserve thereunder in computing the income of the new corporation for a fiscal year immediately preceding its first fiscal year; and

- (b) any amount deducted under clause *m* of subsection 1 of section 23 in computing the income of a predecessor corporation for its last fiscal year or a previous fiscal year shall be deemed to have been deducted thereunder in computing the income of the new corporation for a fiscal year immediately preceding its first fiscal year. 1960-61, c. 14, s. 7 (3).

## Debts

- 6. For the purpose of computing a deduction from the income of the new corporation for a fiscal year under clause *k* or *m* of subsection 1 of section 23 or section 65, where any debt owing to a predecessor corporation,
  - (a) that was included in computing the income of the predecessor corporation for its last fiscal year or a previous fiscal year; or
  - (b) that arose from a loan made in the ordinary course of business by the predecessor corporation, part of the ordinary business of which was the lending of money,

has, by virtue of the amalgamation, been acquired by the new corporation, the amount thereof shall be deemed to be a debt owing to the new corporation that was included in computing the income of the new corporation for a previous fiscal year or that arose from a loan so made by it, as the case may be. R.S.O. 1960, c. 73, s. 65 (2), par. 6.

## Charitable donations

- 7. For the purposes of paragraphs 1 and 2 of subsection 1 of section 37, gifts made by a predecessor corporation in its last fiscal year shall, to the extent that they were not deductible in computing its taxable income for that fiscal year, be deemed to have been made by the new corporation in a fiscal year immediately preceding its first fiscal year. R.S.O. 1960, c. 73, s. 65 (2), par. 7; 1968-69, c. 19, s. 16 (1).

## Business losses

- 8. For the purpose of paragraph 3 of subsection 1 of section 37, business losses sustained by a predecessor corporation are not deductible in computing the taxable income of the new corporation.

## Un-distributed income

- 9. For the purpose of computing the undistributed income of the new corporation on hand at any time, where a predecessor corporation had undistributed income on hand immediately before the amalgamation, the amount thereof shall be added to the amount determined under subsection 1 of section 56 from which the aggregate of the amounts referred to in paragraphs 1 to 6 thereof is to be subtracted. R.S.O. 1960, c. 73, s. 65 (2), pars. 7-9.

10. For the purpose of computing a deduction from the income of the new corporation for a fiscal year under clause *d* of subsection 1 of section 61, any amount included in computing the income of a predecessor corporation from a business for its last fiscal year or a previous fiscal year in respect of property sold in the course of the business shall be deemed to have been included in computing the income of the new corporation from the business for a previous fiscal year in respect thereto. 1960-61, c. 14, s. 7 (4).  
Uncollected proceeds of sales of predecessor corporations
11. For the purpose of section 46, any expenditure of a capital nature on scientific research made by a predecessor corporation in its last fiscal year or a previous fiscal year that would have been deductible by the predecessor corporation by virtue of clause *b* of subsection 1 of section 46 in computing its income for its last fiscal year shall, to the extent such expenditure has not been deducted by the predecessor corporation, be deemed to have been an expenditure of a capital nature on scientific research made in Canada by the new corporation in its first fiscal year. 1961-62, c. 23, s. 22 (2).  
Scientific research
12. For the purpose of section 47, where the amalgamation of the two or more corporations was after the 10th day of April, 1962, the base scientific expenditure of the new corporation is an amount equal to the aggregate of the base scientific expenditure of each of the predecessor corporations.  
Scientific research
13. For the purpose of section 58, where a predecessor corporation had acquired a right, licence or privilege to explore for, drill for or take in Canada petroleum, natural gas or other related hydrocarbons, except coal, under an agreement, contract or arrangement described in subsection 12 of section 58 and, by virtue of the amalgamation, that right, licence or privilege, or any interest,
  - (a) in such right, licence or privilege, or
  - (b) in the production of wells, situated on the land to which such right, licence or privilege relates,became the property of the new corporation, the new corporation shall be deemed to have acquired the right, licence or privilege under an agreement, contract or arrangement described in subsection 12 of section 58.  
Exploration
14. For the purpose of computing a deduction from the income of the new corporation for a fiscal year under clause *c* of subsection 1 of section 61 or subsection 5 of section 61, any amount included in computing the  
Special reserves



income of a predecessor corporation for its last fiscal year or a previous fiscal year, by virtue of clause *a* of subsection 1 of section 61, shall be deemed to have been included in computing the income of the new corporation for a previous fiscal year by virtue thereof. 1962-63, c. 26, s. 9 (1).

Exploration,  
prospecting  
and develop-  
ment  
expenses

(3) Notwithstanding subsection 22 of section 58, where there has been an amalgamation of two or more corporations after the year 1957 and the principal business of the new corporation is,

- (a) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas;
- (b) mining or exploring for minerals;
- (c) processing mineral ores for the purpose of recovering metals therefrom;
- (d) a combination of processing mineral ores for the purpose of recovering metals therefrom and processing metals recovered from the ore so processed; or
- (e) fabricating metals,

there may be deducted by the new corporation in computing its income for a fiscal year the aggregate of the following amounts in respect of expenses incurred by predecessor corporations, namely, in respect of each individual predecessor corporation, an amount that is the lesser of,

- (f) the aggregate of,
  - (i) the drilling and exploration expenses, including all general geological and geophysical expenses, incurred by the predecessor corporation on or in respect of exploring or drilling for petroleum or natural gas in Canada, and
  - (ii) the prospecting, exploration and development expenses incurred by the predecessor corporation in searching for minerals in Canada,

to the extent that such expenses,

- (iii) were not deductible by the new corporation in computing its income for a previous fiscal year and were not deductible by the predecessor corporation in computing its income for its last fiscal year or its income for a previous fiscal year, and
  - (iv) would, but for the provisions of clause *b* of subsection 1 of section 58, clause *b* of subsection 2 of section 58, clause *d* of subsection 3 of section 58, clause *h* of subsection 5 of section 58, and clause *d* of subsection 22 of section 58, or any of those clauses, have been deductible by the predecessor corporation in computing its income for its last fiscal year;
- or

(g) of the aggregate determined under clause *f*, an amount equal to such part of the income of the new corporation for the fiscal year,

(i) if no deduction were allowed under clause *b* of subsection 2 of section 23, and

(ii) if no deduction were allowed under this section,

minus any deduction allowed for the fiscal year by subsection 1 of section 38, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property from which the predecessor corporation had, immediately before the amalgamation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and no amount in respect of expenses of the predecessor corporation included in the aggregate determined under clause *f* shall, where subsection 1 of section 56 is being applied to determine for the purpose of paragraph 9 of subsection 2 of this section the undistributed income of the predecessor corporation on hand immediately before the amalgamation, be included in the amount or amounts deductible under any paragraph of subsection 1 of section 56. R.S.O. 1960, c. 73, s. 65 (3); 1960-61, c. 14, s. 7 (5); 1961-62, c. 23, s. 22 (3); 1962-63, c. 26, s. 9 (2); 1968-69, c. 19, s. 16 (2).

(4) In applying the provisions of subsection 3 to determine the amount that may be deducted by the new corporation in computing its income under this Part for a fiscal year, where a predecessor corporation has paid an amount other than a rental or royalty to the government of Canada or of a province for, Idem

(a) the right to explore for petroleum or natural gas on a specified parcel of land in Canada which right is, for greater certainty, declared to include a right of the type commonly referred to as a "licence", "permit" or "reservation"; or

(b) a legal lease of the right to take or remove petroleum or natural gas from a specified parcel of land in Canada,

and acquired the rights, before the 11th day of April, 1962, in respect of which the amount so paid, if, before the predecessor corporation was entitled, by virtue of subsection 20 of section 58, to any deduction in computing its income for a fiscal year in respect of the amount so paid, the property of the predecessor corporation was acquired by the new corporation and the new corporation did, before any well came into production in reasonable commercial quantities, on the land referred to in clause *a* or *b*, surrender all the rights so acquired by the predecessor corporation, including, in respect of a right of the kind described in clause

*a*, all rights thereunder to any lease and all rights under any lease made thereunder, without receiving any consideration therefor or payment of any part of the amount so paid by the predecessor corporation, the amount so paid by the predecessor corporation shall be added to the amount determined under clause *f* of subsection 3. 1961-62, c. 23, s. 22 (4); 1962-63, c. 26, s. 9 (3).

Tax on  
tax

R.S.C. 1952,  
c. 148

**67.** Where under a contract, will or trust made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

- (a) the tax payable by the corporation under Part II of this Act for the fiscal year in or in respect of which such a payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the fiscal year plus,
  - (i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,
    - (A) the payment, and
    - (B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) would be increased by including the payment in computing its income, and
  - (ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the fiscal year, the amount fixed by subclause i or the additional payment, whichever is the lesser; and
- (b) if the person required to make the payments is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a fiscal year, such corporation is not entitled to deduct the amount determined under subclause ii of clause *a*. R.S.O. 1960, c. 73, s. 66.

Acquisition  
of depreci-  
able  
property

**68.—(1)** Where in a fiscal year a corporation has acquired property in respect of which it is entitled to a deduction under regulations made under clause *a* of subsection 2 of section 23 in computing its income for that fiscal year, hereinafter in this section referred to as “depreciable property”, if it so elects in a manner prescribed on or before the day on or before which it is required by section 73 to file its return of income for the year,

- (a) in computing its income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *a*, *h* and *i* of subsection 1 of section 23 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing its income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it; and
- (b) the amount or the part of the amount, as the case may be, described in clause *a* shall be added to the capital cost to it of the depreciable property so acquired by it.

(2) Where in a fiscal year a corporation has used borrowed money for the purpose of exploration, prospecting or development, and the expenses incurred by it in respect of the exploration, prospecting or development are deductible in computing its income for the fiscal year by virtue of section 58 or would be so deductible by virtue of that section if the corporation had sufficient income for the fiscal year to permit such a deduction to be made, if it so elects in prescribed manner on or before the day on or before which it is required by section 73 to file its return of income for the fiscal year,

Borrowed money used for exploration, prospecting and development

- (a) in computing its income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *a*, *h* and *i* of subsection 1 of section 23 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing its income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of the borrowed money used for the exploration, prospecting and development; and
- (b) the amount or the part of the amount, as the case may be, described in clause *a* shall be deemed to be exploration, prospecting and development expenses incurred by it in the fiscal year.

(3) In computing the income of a corporation for a fiscal year, *Idem* where the corporation,

- (a) in any preceding fiscal year made an election under subsection 1 in respect of borrowed money used to acquire depreciable property or an amount payable for depreciable property acquired by it; and



- (b) in each fiscal year, if any, after that preceding fiscal year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing its income, other than exempt income, for each such fiscal year by virtue of clauses *a*, *h* and *i* of subsection 1 of section 23 in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it,

if it so elects in prescribed manner on or before the day on or before which it is required by section 73 to file its return of income for the fiscal year, clauses *a*, *h* and *i* of subsection 1 of section 23 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing its income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it, and the said amount or part of the amount, as the case may be, shall be added to the capital cost to it of the depreciable property so acquired by it.

Idem

(4) In computing the income of a corporation for a fiscal year, where the corporation,

- (a) in any preceding fiscal year made an election under subsection 2 in respect of borrowed money used for the purpose of exploration, prospecting or development; and
- (b) in each fiscal year, if any, after that preceding fiscal year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing its income, other than exempt income, for each such fiscal year by virtue of clauses *a*, *h* and *i* of subsection 1 of section 23 in respect of the borrowed money used for the exploration, prospecting and development,

if it so elects in prescribed manner on or before the day on or before which it is required by section 73 to file its return of income for the fiscal year, clauses *a*, *h* and *i* of subsection 1 of section 23 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing its income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used for the exploration, prospecting and development, and the said amount or part of the amount, as the case may be, shall be deemed to be exploration, prospecting and development expenses incurred by it in the fiscal year.

(5) Notwithstanding any other provision of this Act, where a corporation has made an election in accordance with the provisions of subsection 1 or 2, such reassessments of tax, interest or penalties shall be made as are necessary to give effect thereto. Reassess-  
ments

(6) This section does not apply to a co-operative corporation for the period during which it was exempt by section 48 from payment of tax under this Act. 1970, c. 69, s. 18. Co-operative  
corporations

## PART IV

### COMPUTATION OF PAID-UP CAPITAL

#### DIVISION A—TAXABLE PAID-UP CAPITAL

**69.** The taxable paid-up capital of a corporation shall be measured as at the close of the fiscal year for which the tax imposed by section 6 is levied and is its paid-up capital minus the deductions permitted by Division C. R.S.O. 1960, c. 73, s. 67. Taxable  
paid-up  
capital

#### DIVISION B—COMPUTATION OF PAID-UP CAPITAL

**70.** The paid-up capital of a corporation for a fiscal year is its paid-up capital as it stood at the close of the fiscal year and includes the paid-up capital stock of the corporation, its earned, capital and any other surplus, all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under Part III, all sums or credits advanced or loaned to the corporation by any other corporation, excluding a bank, and all its indebtedness, whether assumed or undertaken by it, represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property of the corporation or any of it is subject. R.S.O. 1960, c. 73, s. 68. World  
paid-up  
capital

#### DIVISION C—COMPUTATION OF TAXABLE PAID-UP CAPITAL

**71.—(1)** For the purpose of computing the taxable paid-up capital of a corporation for a fiscal year, there may be deducted from its paid-up capital as at the close of the fiscal year such of the following amounts as are applicable: Deductions  
from  
paid-up  
capital

- (a) the amount of the goodwill or other intangible thing included as an asset to the extent that such goodwill or other intangible thing in the opinion of the Minister has no value, but this deduction applies to no more than 50 per cent of the book value of such goodwill or other intangible thing; Goodwill

Discount  
on shares  
R.S.O. 1970,  
c. 89

- (b) the amount of the discount allowed on the sale of the shares of a corporation to which Part IV of *The Corporations Act* applies;

Investments

- (c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a* and *b*, which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total assets of the corporation remaining after the deductions of the amounts provided by clauses *a* and *b*, but cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a subsidiary controlled corporation or a subsidiary wholly-owned corporation taxable under section 6 shall be deemed not to be loans and advances to other corporations;

Capital  
held in  
mining

- (d) in the case of a corporation engaged in mining, the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a*, *b* and *c* which the total of,

(i) the amount held or used in the survey for exploration and development of minerals,

(ii) the amount invested in the mine as defined by *The Mining Tax Act*,

(iii) the amount invested in the plant and works necessary to and forming part of such mine, and

(iv) the amount invested in the plant and works necessary for the refinement of the ore taken from the mine,

bears to the total assets remaining after the deduction of the amounts provided by clauses *a*, *b* and *c*. R.S.O. 1960, c. 73, s. 69 (1); 1968, c. 20, s. 33.

R.S.O. 1970,  
c. 275

Interpre-  
tation

- (2) For the purpose of this Part, "total assets" includes any amount,

(a) by which any asset of a corporation is carried in its books of account or on its balance sheet in excess of the cost thereof;

(b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible under Part III,

and excludes any amount,

- (c) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under Part III.

(3) In computing the paid-up capital of a non-resident corporation for a fiscal year, there shall not be included the amount of the paid-up capital invested in a ship or aircraft operated by such corporation in Canada if such corporation is entitled, in computing its income for a fiscal year, to exclude the income for the fiscal year earned in Canada from the operation of such ship or aircraft under clause *b* of section 22. R.S.O. 1960, c. 73, s. 69 (2, 3).

Ship or aircraft of non-resident corporation, amounts not included in computing paid-up capital

**72.**—(1) Unless otherwise provided in this Act, any tax imposed by this Act shall be determined on the amount of the paid-up capital stock, mileage or other subject in respect of which the amount of the tax is to be ascertained as such stock, mileage or other subject stood at the close of the fiscal year of the corporation for which the tax is imposed. R.S.O. 1960, c. 73, s. 70 (1).

How tax to be determined

(2) Any tax imposed by this Act that is to be calculated in respect of, *Idem*

- (a) the taxable income of a corporation; or  
(b) the gross premiums that become payable to insurance corporations,

shall be calculated with reference to the taxable income earned or the gross premiums that become payable, as the case may be, during the fiscal year of the corporation for which the respective tax is imposed. 1968-69, c. 19, s. 17.

## PART V

### RETURNS, PAYMENTS, ASSESSMENTS AND APPEALS

#### DIVISION A—RETURNS

**73.**—(1) Every corporation on which a tax is imposed by this Act shall, on or before the last day of the month that ends six months following the close of its fiscal year, without notice or demand, and every corporation on which a tax is or is not imposed by this Act shall, upon receipt of a notice or demand in writing from the Minister or from any officer of the Department of Revenue authorized by the Minister to make such demand, deliver to the Minister such return as is required for the purpose of carrying out the provisions of this Act. R.S.O. 1960, c. 73, s. 71 (1); 1968, c. 20, s. 34 (1).

Annual return



Verification  
of returns

(2) The return shall contain an estimate of the respective taxes payable and shall be verified by a certificate certifying that the financial statements included in the return or attached thereto are in agreement with the books of the corporation, and such certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the corporation and, in the case of an extra-provincial corporation, by the manager or chief agent of the corporation in Ontario or by such other person or persons connected with the corporation as the Minister requires. R.S.O. 1960, c. 73, s. 71 (2); 1968, c. 20, s. 34 (2).

Penalty  
for default

**74.**—(1) Every corporation that fails to deliver a return as and when required by subsection 1 of section 73 shall pay a penalty of,

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the corporation for the fiscal year that was unpaid at that time was less than \$10,000; and
- (b) \$500, if at the time the return was required to be delivered tax payable by the corporation equal to \$10,000 or more was unpaid.

Failure to  
complete  
return

(2) Every corporation that fails to complete the information required on the return to be delivered under subsection 1 of section 73 is liable to a penalty of 1 per cent of the taxes payable by it under this Act, but such penalty shall not in any case be less than \$20 or more than \$100.

False  
statements

(3) Every person who has,

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a corporation;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of a corporation;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses *a* to *d*,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on summary conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both. R.S.O. 1960, c. 73, s. 72.

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act has made, or has participated in, assented to or acquiesced in the making of, a statement or omission in a return, certificate, statement or answer filed or made as required by or under this Act or the regulations, as a result of which the tax that would have been payable by the corporation for a fiscal year, if the tax had been assessed on the basis of the information provided in the return, certificate, statement or answer, is less than the tax payable by the corporation for the fiscal year, the corporation is liable to a penalty of 25 per cent of the amount by which the tax that would so have been payable is less than the tax payable by the corporation for the fiscal year. 1964, c. 11, s. 12.

Statements  
or omissions  
in return

**75.** The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1960, c. 73, s. 73; 1968, c. 20, s. 35.

Extended  
time for  
making  
returns

#### DIVISION B—PAYMENTS

**76.**—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each fiscal year for which such taxes are imposed pass. R.S.O. 1960, c. 73, s. 74 (1).

Taxes, when  
to accrue

(2) Every corporation on which a tax is imposed by this Act shall pay to the Treasurer of Ontario,

Dates of  
payment

(a) on or before the fifteenth day of each of the fifth, eighth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the second month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one quarter of the tax payable as estimated by it at the rates for the fiscal year on,

(i) its estimated taxable income and other subject of tax for the fiscal year, or

(ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and

(b) on or before the last day on which a return is required to be delivered under subsection 1 of section 73, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year. 1967, c. 15, s. 9 (1); 1968, c. 20, s. 36 (1, 2).

Dates of  
payment

(3) Notwithstanding subsection 2, every corporation on which a tax is imposed by this Act, the fiscal year of which commenced after the 15th day of March, 1969, shall pay to the Treasurer of Ontario,

- (a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the taxation year on,
  - (i) its estimated taxable income and other subject of tax for the fiscal year, or
  - (ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and
- (b) on or before the last day on which a return is required to be delivered under subsection 1 of section 73, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year. 1968-69, c. 18, s. 9 (1).

Special =  
cases

(4) Notwithstanding subsections 2 and 3 and subject to subsection 4 of section 77, where for the purposes of this section any corporation estimates the amount of tax payable for a fiscal year to be less than \$300, the corporation may, instead of paying the instalments required by subsection 2 or 3, pay such tax on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable. 1968-69, c. 18, s. 9 (2).

Idem

(5) Notwithstanding subsection 2, every corporation, except those corporations to which the provisions of section 8, 9, 10, 11 or 12 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the capital tax remaining unpaid as imposed by this Act based on a rate of one-tenth of 1 per cent of the taxable paid-up capital as it stood at the close of such fiscal year.

Idem

(6) Notwithstanding subsection 2, every corporation to which the provisions of section 8, 9, 10, 11 or 12 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the taxes payable under those sections remaining unpaid, determined on the amount of mileage or other subject referred to in the said sections in respect of which the

amount of tax is to be ascertained as such mileage or other subject of tax stood at the close of such fiscal year. 1968-69, c. 18, s. 9 (3).

**77.**—(1) Where the amount paid on account of tax payable by a corporation for a fiscal year before the expiration of the time allowed for delivering of the return of the corporation under section 73 is less than the amount of tax payable for the fiscal year, the corporation liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at such rate as is prescribed by the regulations. R.S.O. 1960, c. 73, s. 75 (1); 1968-69, c. 18, s. 10 (1). Interest on unpaid tax

(2) Where a corporation is required by subsection 2, 3, 4, 5 or 6 of section 76 to pay all or a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection 1, shall pay interest, at such rate as is prescribed by the regulations, on the amount it failed to pay from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection 1, whichever is earlier. 1968-69, c. 18, s. 10 (2); 1968-69, c. 19, s. 18. Idem

(3) Where a corporation is entitled to deduct under paragraph 3 of subsection 1 of section 37 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as “the loss year”, for the purpose of computing interest and penalty interest under this section on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under paragraph 3 of subsection 1 of section 37 in respect of that loss. R.S.O. 1960, c. 73, s. 75 (5). Effect of carry-back of loss

(4) For the purposes of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a fiscal year as estimated by it on its taxable income and other subject of tax for a preceding fiscal year or on its estimated taxable income and other subject of tax for the fiscal year, it shall be deemed to have been liable to pay a part or instalment computed by reference to the taxable income and other subject of tax for, Payment of instalments

(a) the preceding fiscal year; or

(b) the fiscal year,

whichever is the lesser. 1968, c. 20, s. 37 (4).



## DIVISION C—ASSESSMENTS

Assessment  
of returns

**78.**—(1) The Minister shall with all due despatch examine each return delivered under section 73 and assess the tax for the fiscal year and the interest and penalties if any payable. R.S.O. 1960, c. 73, s. 76 (1); 1968, c. 20, s. 38 (1).

Notice of  
assessment

(2) After examination of a return, the Minister shall send by mail or by registered mail or deliver by personal service a notice of assessment to the corporation that delivered the return. 1967, c. 15, s. 11; 1968, c. 20, s. 38 (2).

Continuation  
of liability  
for tax

(3) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. R.S.O. 1960, c. 73, s. 76 (3).

Re-  
assessment

(4) The Minister may at any time assess tax, interest or penalties, or notify in writing any person by whom a return of income or other subject of tax for a fiscal year has been filed that no tax is payable for the fiscal year, and may,

(a) at any time, if the corporation or person filing the return,

(i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or

(ii) has failed to file financial statements with the return required to be filed under section 73, or

(iii) has been negligent in supplying any information under this Act, or

(iv) has filed with the Minister a waiver in a prescribed form within six years from the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a fiscal year, or

(v) has claimed a deduction under section 50; and

(b) within six years from the day referred to in subclause iv of clause a, in any other case,

reassess or make additional assessments or assess tax, interest or penalties, as the circumstances require. 1970, c. 69, s. 19.

Idem

(5) Where a corporation has delivered the return required by section 73 for a fiscal year and, within one year from the day on or before it was required by section 73 to deliver a return for that fiscal year, has filed an amended return for the fiscal year claiming a deduction from income under paragraph 3 of subsection 1 of section 37 in respect of a business loss sustained in the fiscal year immediately following that fiscal year, the Minister shall reassess the tax payable by the corporation for that fiscal year. R.S.O. 1960, c. 73, s. 76 (5); 1968, c. 20, s. 38 (4).

(6) The Minister is not bound by a return or information delivered by or on behalf of a corporation and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act. R.S.O. 1960, c. 73, s. 76 (6); 1968, c. 20, s. 38 (5).

Minister  
not bound  
by returns

(7) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1960, c. 73, s. 76 (7).

Assessment  
valid and  
binding

**79.**—(1) Every corporation shall within thirty days from the day of mailing of the notice of assessment pay any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding. R.S.O. 1960, c. 73, s. 77 (1).

Payment  
of  
assessment

(2) Where in the opinion of the Minister a corporation is attempting to avoid payment of a tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 6 of section 78, he may, notwithstanding subsection 2 of section 78, serve the notice of assessment upon the corporation or the president, manager, secretary or any director, agent or representative thereof and direct that all taxes, penalties and interest as set out therein shall be paid forthwith. R.S.O. 1960, c. 73, s. 77 (2); 1968, c. 20, s. 39.

Idem

#### DIVISION D—REFUNDS OF OVERPAYMENTS

**80.**—(1) If the return required to be delivered by a corporation under section 73 for a fiscal year has been delivered within four years from the end of that fiscal year, the Minister,

Refunds

- (a) may, upon mailing the notice of assessment for the fiscal year, refund without application therefor any overpayment made on account of the tax payable for the fiscal year; and
- (b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within four years from the day on which the overpayment was made or the day on which the notice of assessment was mailed. R.S.O. 1960, c. 73, s. 78 (1); 1968, c. 20, s. 40 (1).

(2) Instead of making a refund that might otherwise be made under this section, the Minister may, where the corporation is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the corporation of such action. R.S.O. 1960, c. 73, s. 78 (2); 1968, c. 20, s. 40 (2).

Application  
to other  
taxes

Interest on  
over-  
payments

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the latest of,

- (a) the day on which the overpayment arose;
- (b) the day on or before which the return of the corporation in respect of which the overpayment arose was required by section 73 to be delivered; or
- (c) the day on which the return of the corporation in respect of which the overpayment arose was delivered,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection. R.S.O. 1960, c. 73, s. 78 (3); 1968-69, c. 18, s. 11 (1).

Idem

(4) Where by a decision of the Minister under section 81 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a fiscal year is less than the amount assessed by the assessment under section 78 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the fiscal year, the interest payable under subsection 3 on that overpayment shall be computed at such rate as is prescribed by the regulations. R.S.O. 1960, c. 73, s. 78 (4); 1968, c. 20, s. 40 (4); 1968-69, c. 18, s. 11 (2).

Interpre-  
tation

(5) For the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax payable for a fiscal year minus all amounts payable under this Act or an amount so paid where no amount is so payable.

Effect of  
carry-back  
of loss

(6) Where a corporation is entitled to deduct under paragraph 3 of subsection 1 of section 37 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection 3 for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under paragraph 3 of subsection 1 of section 37 in respect of that loss. R.S.O. 1960, c. 73, s. 78 (5, 6).

## DIVISION E—OBJECTIONS TO ASSESSMENT

**81.**—(1) A corporation that objects to an assessment under this Act may within ninety days from the day of mailing of the notice of assessment serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. R.S.O. 1960, c. 73, s. 79 (1); 1968, c. 20, s. 41 (1). Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. R.S.O. 1960, c. 73, s. 79 (2); 1968, c. 20, s. 41 (2). Service

(3) The Minister may accept a notice of objection under this section notwithstanding that it was not served in duplicate or in the manner required by subsection 2. 1968-69, c. 19, s. 19. Idem

(4) Upon receipt of the notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess and he shall thereupon notify the corporation of his action by registered letter. R.S.O. 1960, c. 73, s. 79 (3); 1968, c. 20, s. 41 (3). Recon- sideration

## DIVISION F—APPEALS

**82.**—(1) Where a corporation has served notice of objection to an assessment under section 81, the corporation may appeal to the Supreme Court to have the assessment vacated or varied after the Minister has confirmed or reassessed, but no appeal under this section may be instituted after the expiration of ninety days from the day notice has been mailed to the corporation under section 81 that the Minister has confirmed the assessment or reassessed. R.S.O. 1960, c. 73, s. 80 (1); 1968, c. 20, s. 42 (1). Appeal

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or other permanent establishment. R.S.O. 1960, c. 73, s. 80 (2); 1968, c. 20, s. 42 (2). Appeals, how instituted

(3) A notice of appeal shall be served upon the Minister by being sent by registered mail addressed to the Minister. R.S.O. 1960, c. 73, s. 80 (3); 1968, c. 20, s. 42 (3). Notice of appeal

(4) The corporation appealing shall set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and reasons that it intends to submit in supporting its appeal. R.S.O. 1960, c. 73, s. 80 (4). Statement of allegations



Security  
for costs

(5) An appeal by a corporation and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, null and void unless security for the costs of the appeal has been, within the said period, paid into court in the sum of \$400 or such other sum as the Minister requires and, upon an appeal becoming null and void by virtue of this subsection, no other appeal or proceedings shall be instituted in respect of the same decision. R.S.O. 1960, c. 73, s. 80 (5); 1968, c. 20, s. 42 (4).

Idem

(6) When security has been given under subsection 5, notice thereof shall be served on the Minister specifying the fact and the purpose of the payment. R.S.O. 1960, c. 73, s. 80 (6); 1968, c. 20, s. 42 (5).

Reply to  
notice of  
appeal

**83.**—(1) The Minister shall with all due despatch serve on the corporation appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the Minister intends to rely on. R.S.O. 1960, c. 73, s. 81 (1); 1968, c. 20, s. 43.

Amendment  
of notice  
of appeal

(2) The court or a judge may in its or his discretion strike out a notice of appeal or any part thereof for failure to comply with subsection 4 of section 82 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

Amendment  
to reply

(3) The court or a judge may in its or his discretion,

- (a) strike out any part of a reply for failure to comply with subsection 1 or permit the amendment of a reply; or
- (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

Failure to  
comply

(4) Where a notice of appeal is struck out for failure to comply with subsection 4 of section 82 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge thereof may, in its or his discretion, dispose of the appeal by dismissing it.

Idem

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true. R.S.O. 1960, c. 73, s. 81 (2-5).

Matter  
deemed  
action

**84.**—(1) Upon the filing of the material referred to in sections 82 and 83 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or permanent establishment, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing.

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs. R.S.O. 1960, c. 73, s. 82, (1, 2). Facts not set out may be pleaded

(3) The court may dispose of the appeal by,

Disposal of appeal

- (a) dismissing it;
- (b) allowing it; or
- (c) allowing it, and
  - (i) vacating the assessment,
  - (ii) varying the assessment,
  - (iii) restoring the assessment, or
  - (iv) referring the assessment back to the Minister for reconsideration and reassessment. R.S.O. 1960, c. 73, s. 82 (3); 1968, c. 20, s. 44 (1).

(4) The court may in delivering judgment disposing of an appeal order payment or refund of tax, interest, penalties or costs by the taxpayer or the Minister, as the case may be. R.S.O. 1960, c. 73, s. 82 (4); 1968, c. 20, s. 44 (2). Court may order payment of tax, etc.

**85.** Proceedings under this Division shall be held in camera upon request made to the court by the corporation appealing or by the Minister. R.S.O. 1960, c. 73, s. 83; 1968, c. 20, s. 45. Proceedings in camera

**86.** The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 84 and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1960, c. 73, s. 84. Supreme Court practice to govern

**87.** An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. R.S.O. 1960, c. 73, s. 85. Irregularities

## PART VI

### ADMINISTRATION AND ENFORCEMENT

**88.**—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and, Investigations

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the president, manager, secretary or any director, agent or representative of the corporation liable to pay or considered possibly liable to pay tax under this Act and any other person on the premises of such corporation to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require such person to attend at the premises or place with him; and
- (d) if during the course of an audit or examination it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings. R.S.O. 1960, c. 73, s. 86 (1); 1968, c. 20, s. 46 (1).

Idem

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any corporation or from the president, manager, secretary, or any director, agent or representative thereof,

- (a) any information or additional information or a return as required by section 73 or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein. R.S.O. 1960, c. 73, s. 86 (2); 1968, c. 20, s. 46 (2).

Idem

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any portion of the income of the corporation, or from any partner, agent or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books,

letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. R.S.O. 1960, c. 73, s. 86 (3); 1968, c. 20, s. 46 (3).

(4) The Minister may, for any purpose related to the adminis- Idem  
tration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Department of Revenue, together with such members of the provincial police or other peace officers as he calls on to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. R.S.O. 1960, c. 73, s. 86 (4); 1968, c. 20, s. 46 (4).

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose of determining what tax, if any, is payable under this Act by any corporation and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. R.S.O. 1960, c. 73, s. 86 (5); 1968, c. 20, s. 46 (5). Production of evidence to prove tax payable by another corporation

(6) The Minister may, for any purpose related to the adminis- Inquiry  
tration or enforcement of this Act, authorize any person, whether or not he is an officer of the Department of Revenue, to make such inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act. R.S.O. 1960, c. 73, s. 86 (6); 1968, c. 20, s. 46 (6).

(7) Where a book, record or other document has been seized, Copies  
examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Department of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. R.S.O. 1960, c. 73, s. 86 (7); 1968, c. 20, s. 46 (7).



- Compliance (8) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.
- Adminis-  
tration  
of oaths (9) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.
- Powers  
of inquiry (10) For the purpose of an inquiry authorized under subsection 6, the person authorized to make the inquiry has all the powers and authority that may be conferred upon a commissioner appointed under *The Public Inquiries Act*. R.S.O. 1960, c. 73, s. 86 (8-10).
- R.S.O. 1970,  
c. 379
- Books and  
records **89.**—(1) Every corporation that is required by this Act to pay taxes shall keep records and books of account, including an annual inventory kept in the prescribed manner, at its permanent establishment in Ontario or at such other place as is designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act to be determined. R.S.O. 1960, c. 73, s. 87 (1); 1968, c. 20, s. 47 (1).
- Idem (2) Where a corporation has failed to keep adequate records and books of account for the purpose of this Act, the Minister may require the corporation to keep such records and books of account as he specifies and the corporation shall thereafter keep records and books of account as so required. R.S.O. 1960, c. 73, s. 87 (2); 1968, c. 20, s. 47 (2).
- Idem (3) Every corporation required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such records or books of account. R.S.O. 1960, c. 73, s. 87 (3); 1968, c. 20, s. 47 (3).
- Offences **90.**—(1) Every corporation that has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of not less than \$25 for each day of default.

(2) Every person who has failed to comply with or contravened section 88 or 89 is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of \$25 for each day during which the default continues. R.S.O. 1960, c. 73, s. 88. Idem

**91.** Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. R.S.O. 1960, c. 73, s. 89. Officers,  
etc., of  
corporations

**92.** An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. 1970, c. 69, s. 20. Time for  
laying  
information

**93.—**(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act. Communi-  
cation of  
information

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1960, c. 73, s. 90 (1, 2). Offence

(3) Notwithstanding subsection 1, the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. R.S.O. 1960, c. 73, s. 90 (3); 1968, c. 20, s. 48. Exception

### *Collection*

**94.—**(1) All taxes, interest, penalties, costs and other amounts payable under this Act are debts due to Her Majesty and subject to the *Bankruptcy Act* (Canada) are a first lien and charge upon the property in Ontario of the corporation liable to pay such taxes, interest, penalties, costs and other amounts, but such lien and charge does not apply to any mine as defined in *The Mining Tax Act* until the corporation owning the mine has become liable for the payment of a tax on mining profits under *The Mining Tax Act*. R.S.O. 1960, c. 73, s. 91 (1); 1968-69, c. 19, s. 20. Priority  
of tax  
R.S.C. 1952,  
c. 14  
  
R.S.O. 1970,  
c. 275

Tax and  
penalty to  
be lien on  
property

(2) All taxes, interest, penalties, costs and other amounts payable under this Act by a corporation that owns, operates or uses a railway are a special lien on any property, real or personal, in which the corporation has any interest, legal or equitable (other than as lessee or under any agreement for running rights or operating rights) in priority to every claim, privilege, lien or encumbrance, whenever created, of every person, and the lien and its priority are not lost or impaired by any neglect, omission or error of any minister, officer, servant or agent of the Crown, or by want of registration. R.S.O. 1960, c. 73, s. 91 (2).

Garnishment

**95.**—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a corporation liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable to that corporation in whole or in part to the Treasurer on account of the liability under this Act. R.S.O. 1960, c. 73, s. 92 (1); 1968, c. 20, s. 49 (1); 1968-69, c. 19, s. 21 (1).

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1960, c. 73, s. 92 (2); 1968-69, c. 19, s. 21 (2).

Liability  
of debtor

(3) Every person who has discharged any liability to a corporation liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser. R.S.O. 1960, c. 73, s. 92 (3); 1968-69, c. 19, s. 21 (3).

Service of  
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a corporation liable to make a payment under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

Idem

(5) Where the persons who are or are about to become indebted or liable to make a payment to a corporation liable to make a payment under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. R.S.O. 1960, c. 73, s. 92 (4, 5).

**96.**—(1) Upon default of payment by a corporation of any tax, interest or penalty or any of them imposed upon a corporation by this Act,

Recovery  
of tax,  
interest and  
penalties

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury;
- (b) the Minister may issue a warrant, directed to the sheriff of any county or district in which any property of the corporation is located or situate, for the amount of the tax, interest and penalty or any of them owing by the corporation, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1960, c. 73, s. 93 (1); 1968, c. 20, s. 50 (1, 2).

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Part as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Part shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proven in any court of law by affidavit of the Minister or of any officer of the Department of Revenue. R.S.O. 1960, c. 73, s. 93 (2); 1968, c. 20, s. 50 (3).

Compliance  
of Minister  
to be  
proved by  
affidavit

**97.** The use of any of the remedies provided by sections 95 and 96 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery or enforcement of the payment of any tax, interest and penalty or any of them imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1960, c. 73, s. 94.

Remedies  
for  
recovery  
of tax  
and  
penalty

**98.**—(1) Where a corporation has failed to pay taxes, interest and penalties or any of them imposed by this Act for a period of more than three years from the date of mailing of the notice of assessment provided by subsection 2 of section 78, no person shall sell any capital assets of the corporation unless he has given written notice by registered letter to the Minister not less than ten days before the date of the sale. R.S.O. 1960, c. 73, s. 95 (1); 1968, c. 20, s. 51.

Notice to  
be given  
Minister  
of sale of  
company's  
capital  
assets



- Penalty (2) Every person who contravenes the provisions of subsection 1 is liable to a penalty of not less than an amount equal to the amount of such taxes, interest and penalties in default and such penalty is recoverable by action in any court in which a debt or money demand of a similar amount may be collected. R.S.O. 1960, c. 73, s. 95 (2).
- Compromising disputes as to liability for taxes **99.** If any doubt or dispute arises as to the liability of a corporation to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he deems proper. R.S.O. 1960, c. 73, s. 96; 1968, c. 20, s. 52.
- General offence **100.** Every person who, and every corporation that, contravenes or fails to comply with any of the provisions of this Act or the regulations for which no other fine is provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1960, c. 73, s. 97.
- Fines payable to Minister **101.** The fines imposed for offences under this Act are payable to the Minister. R.S.O. 1960, c. 73, s. 98; 1968, c. 20, s. 53.
- Regulations **102.—**(1) The Lieutenant Governor in Council may make regulations,
- (a) authorizing or requiring the Deputy Minister of Revenue or any officer of the Department of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
  - (b) providing for the issuance of certificates as to the amount of taxes, interest and penalties or any of them owing by any corporation under this Act and prescribing the fee payable therefor;
  - (c) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by the regulations;
  - (d) prescribing amendments to the provisions of Part III and to the provisions of Part II that relate to the allocation of taxable income and taxable paid-up capital between Ontario and any other jurisdiction, such amendments to remain effective only if enacted by the Legislature at the first regular session after such amendments have been prescribed;
  - (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
  - (f) prescribing rates of interest for the purposes of Part V. R.S.O. 1960, c. 73, s. 99; 1968, c. 20, s. 54; 1968-69, c. 18, s. 12.
- Idem (2) A regulation is, if it so provides, effective with reference to a period before it was filed. 1968-69, c. 19, s. 22.

## PART VII

### TRANSITIONAL PROVISIONS

**103.** Notwithstanding any provision of this Act and in order that corporations that become taxable under this Act may be dealt with under this Act on the same basis and in the same manner as they will be dealt with under the *Income Tax Act* (Canada) with respect to fiscal years of such corporations ending in 1957 and later fiscal years, the provisions of the *Income Tax Act* (Canada) and every predecessor thereof affecting the determination of taxable income as they have been in force from time to time shall be deemed, for the purposes of this Act, to have been applied in determining the taxable incomes of such corporations for fiscal years thereof ending in calendar years before 1957, at the same time and to the same extent as they were applicable under those Acts. Effect of R.S.C. 1952, c. 148 on this Act

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CHAPTER 92

The Costs of Distress Act

**1.** No person making distress for rent or for a penalty and no person employed in making the distress, or doing any act in the course of the distress, or for carrying the distress into effect, shall levy, take or receive any costs in respect of the distress other than those prescribed by the Lieutenant Governor in Council. R.S.O. 1960, c. 74, s. 1.

Tariff of costs where sum demanded does not exceed \$80

**2.** No person making a seizure or sale of goods for default in payment of the principal money or interest secured by a chattel mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall levy, take or receive any greater or other fees or costs than those prescribed by the Lieutenant Governor in Council. R.S.O. 1960, c. 74, s. 2.

Tariff of costs under chattel mortgage

**3.** No costs shall be levied, taken or received for or in respect of exempted goods when they may not be lawfully sold, and, when sold, no greater sum in all than \$2 and actual and necessary payments for possession money shall be levied, taken or received for or in respect of costs and expenses of sale of such exempted goods. R.S.O. 1960, c. 74, s. 3.

Costs in respect of seizure of exempted goods

**4.** No person shall make any charge for anything for which the Lieutenant Governor in Council has prescribed a fee under this Act unless it has been actually done. R.S.O. 1960, c. 74, s. 4.

No charge for anything not done

**5.** No person aggrieved by a seizure or sale of goods under a chattel mortgage or by a distress for rent or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall be barred from any action or remedy that he would have had if this Act had not been passed. R.S.O. 1960, c. 74, s. 5.

Right of action not affected

**6.—(1)** A person who makes a distress shall give a statement in writing signed by him of the demand and of the costs and expenses of the distress to the person on whose goods the distress was made and a person who makes a seizure under a chattel

Furnishing statement of demand and costs



mortgage or for default in payment of an instalment of principal or interest secured by an instrument under the terms of which the vendor retains the right to take possession of a chattel sold by him for default in payment of an instalment of principal or interest shall give to the person in possession of the goods seized a statement in writing signed by him of the demand and of the costs charged in respect of the seizure and subsequent proceedings.

Taxation of  
costs of  
distress

(2) The person whose goods are distrained or seized or the person authorizing the distress or seizure or any other person interested, upon giving two days notice in writing, may have the costs and expenses of the bailiff or other person making the distress or seizure taxed by the clerk of the county or district court of the county or district in which the distress or seizure was made.

Furnishing  
bill of costs  
to clerk for  
taxation

(3) The bailiff or person making the distress or seizure shall furnish the clerk with a statement of his costs and expenses for taxation at the time mentioned in the notice or at such other time as the clerk directs, and, in default of his so doing, he is not entitled to any costs or expenses.

Duty of  
clerk on  
taxation

(4) Upon the taxation the clerk shall, among other things, consider the reasonableness of any charges for removal and keeping possession of the goods, and for advertising, or any sums alleged to have been paid therefor, and may examine either party on oath touching the same, and the person requiring the taxation shall pay the clerk a fee of 25 cents therefor.

Appeal

(5) An appeal may be made from such taxation to a judge of the county or district court. R.S.O. 1960, c. 74, s. 6.

Fees and  
costs

**7.** The Lieutenant Governor in Council may prescribe fees and costs payable to persons performing the services mentioned in sections 1 and 2. R.S.O. 1960, c. 74, s. 7.

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## CHAPTER 93

**The County Court Judges' Criminal Courts Act**

**1.**—(1) The judge of every county court or district court or a junior judge thereof, authorized to preside at the sittings of the court of the general sessions of the peace, is constituted a court of record for the trial, out of sessions and without a jury, of any person committed to jail on a charge of being guilty of an offence for which such person may be tried at a court of general sessions of the peace and for which the person so committed consents to be tried out of sessions and without a jury, and the court so constituted has the powers and shall perform the duties respecting the speedy trial of indictable offences mentioned in the *Criminal Code* (Canada). County court judges' criminal courts constituted 1953-54 c. 51 (Can.)

(2) A court constituted under this Act shall be called the county or district court judges' criminal court of the county or district in which it is held. Style of court

(3) The clerk of the peace for the county or district is the clerk of the court constituted under this Act. Clerk of court R.S.O. 1960, c. 75, s. 1.

**2.** Where under the *Criminal Code* (Canada) or *The Summary Convictions Act* an appeal is made to a county or district court, such appeal may be heard by the county or district judge in the court constituted under this Act. Appeals R.S.O. 1970, c. 450 R.S.O. 1960, c. 75, s. 2.

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CHAPTER 94

The County Courts Act

**1.** In this Act, “chief judge” means the Chief Judge of the County and District Courts. 1961-62, c. 24, s. 1, *part*. Interpretation

**2.** There shall be in and for every county and district a court of record to be styled, in counties, the “County Court of the (County or Judicial District) of (*naming the county*)” and, in districts, the “District Court of the District of (*naming the district*)”. R.S.O. 1960, c. 76, s. 1; 1961-62, c. 24, s. 1, *part, amended*. Court for each county and district

**3.** Every county court and district court shall be presided over by a judge or a junior judge in accordance with this Act and *The County Judges Act*. R.S.O. 1960, c. 76, s. 2. Judges  
R.S.O. 1970, c. 95

**4.—(1)** The Lieutenant Governor in Council may appoint a clerk for each county court, and may appoint such persons to the staff of the clerk’s office as he considers necessary and may fix their position specifications, salary ranges, and terms and conditions of employment. Appointment of clerk and staff

**(2)** The Minister of Justice and Attorney General, or any public servant designated by him in writing for the purpose, may make temporary appointments to the staff of the clerk’s office for a term not exceeding one year. 1965, c. 23, s. 1, *amended*. Temporary appointments

**5.** The clerk shall give security for the due performance of the duties of his office in such sum and in such manner and form as the Lieutenant Governor in Council directs. R.S.O. 1960, c. 76, s. 4. Security

**6.** The clerk shall keep his office in the court house or, if there is no room available therein, at such place in the county or district as the judge directs. R.S.O. 1960, c. 76, s. 5. Place of office

**7.—(1)** In this section, “holiday” means, Holiday defined

(a) a holiday as defined in *The Interpretation Act*; R.S.O. 1970, c. 225

(b) Saturday;

(c) the day proclaimed as Civic Holiday in the municipality in which the court office is located;



- (d) the 26th day of December in a year in which Christmas Day falls on a day other than Saturday, or the 27th day of December in a year in which Christmas Day falls on a Saturday.

## Office hours

(2) Except on holidays when they shall be closed, county court and district court offices shall be kept open from 9.30 o'clock in the forenoon until 4.30 o'clock in the afternoon. 1970, c. 98, s. 1.

Taxation of  
costs on  
Supreme  
Court scale  
Idem

**8.**—(1) Subject to subsection 2, the clerk shall tax costs, subject to an appeal to the judge.

(2) Where costs are awarded on the Supreme Court scale, the party entitled thereto may require the costs to be taxed,

- (a) in actions pending in the county courts of the Judicial District of Ottawa-Carleton and of the counties of Lanark, Leeds and Grenville, Stormont, Dundas and Glengarry, Russell, Renfrew or Prescott, by the taxing officer at Toronto or the local taxing officer at Ottawa;
- (b) in actions pending in the county courts of the counties of Middlesex, Lambton, Elgin, Oxford or Perth, by the taxing officer at Toronto or the local taxing officer at London;
- (c) in actions pending in all other county and district courts, by the taxing officer at Toronto. 1964, c. 12, s. 1, *part, amended*.

Powers of  
taxing  
officers

(3) The taxing officer at Toronto has power to tax costs required to be taxed under subsection 2, and, for the purposes of taxations required under subsection 2, the local taxing officers at Ottawa and London have the same powers as the taxing officer at Toronto.

## Appeals

(4) An appeal lies to a Supreme Court judge in chambers from any certificate of a taxation required under subsection 2.

## Practice

(5) The practice on taxations and appeals therefrom and the fees payable thereon shall be the same as in the Supreme Court. 1964, c. 12, s. 1, *part*.

Not to draw  
or advise on  
documents

**9.** The clerk shall not for fee or reward draw or advise upon a chattel mortgage or other paper or document connected with the duties of his office, for which a fee is not expressly allowed by the tariff. R.S.O. 1960, c. 76, s. 8.

Special  
examiners

**10.**—(1) The special examiners of the Supreme Court are officers of the county court and district courts, and they possess the like powers in county and district court cases as they possess in cases in the Supreme Court.

(2) The clerk of a county court or district court may act as Idem special examiner in any action in any county court or district court. R.S.O. 1960, c. 76, s. 9.

**11.** In each year the sittings of each county or district court Sittings shall be held at such time or times as is ordered by the chief judge, and the order of the chief judge shall be deemed to be a regulation to which *The Regulations Act* applies. 1970, c. 98, s. 2. R.S.O. 1970, c. 410

**12.** The judge and the junior judges of a county or district court may sit separately and concurrently for the despatch of the business of a sittings. Concurrent sittings R.S.O. 1960, c. 76, s. 17.

**13.**—(1) Where the judge who is to hold a sittings is unable to hold it at the time appointed, the sheriff or, in his absence, the deputy sheriff shall adjourn the court by proclamation to an hour on the following day to be named by him, and so from day to day until the judge is able to hold the court or until he receives other directions from the judge or from the chief judge. R.S.O. 1960, c. 76, s. 18 (1); 1961-62, c. 24, s. 4, *part.* Adjournment of sittings

(2) The sheriff shall forthwith notify the chief judge of the adjournment. R.S.O. 1960, c. 76, s. 18 (2); 1961-62, c. 24, s. 4, *part.* Notice to chief judge

**14.**—(1) The county and district courts have jurisdiction in, Jurisdiction

- (a) actions arising out of contract, expressed or implied, contract where the sum claimed does not exceed \$7,500;
- (b) personal actions, except actions for criminal conversa- tort tion and actions for libel, where the sum claimed does not exceed \$7,500;
- (c) actions for trespass or injury to land where the sum injury to land claimed does not exceed \$7,500, unless the title to the land is in question, and in that case also where the value of the land does not exceed \$7,500 and the sum claimed does not exceed that amount;
- (d) actions for the obstruction of or interference with a easements right-of-way or other easement where the sum claimed does not exceed \$7,500, unless the title to the right or easement is in question, and in that case also where the value of the land over which the right or easement is claimed does not exceed that amount;
- (e) actions for the recovery of property, real or personal, recovery of property including actions of replevin and actions of detinue where the value of the property does not exceed \$7,500;

- mortgages (f) actions for the enforcement by foreclosure or sale or for the redemption of mortgages, charges or liens, with or without a claim for delivery of possession or payment or both, where the sum claimed to be due does not exceed \$7,500;
- partnerships (g) partnership actions where the joint stock or capital of the partnership does not exceed in amount or value \$50,000;
- legacies (h) actions by legatees under a will for the recovery or delivery of money or property bequeathed to them where the legacy does not exceed in value or amount \$7,500, and the estate of the testator does not exceed in value \$50,000;
- equitable relief (i) in all other actions for equitable relief where the subject-matter involved does not exceed in value or amount \$7,500; and
- insolvency (j) actions and contestations for the determination of the right of creditors to rank upon insolvent estates where the claim of the creditor does not exceed \$7,500. R.S.O. 1960, c. 76, s. 19 (1); 1961-62, c. 24, s. 5 (1); 1970, c. 98, s. 3 (1-11).

Dispute of  
jurisdiction  
by  
defendant

(2) Where a defendant intends to dispute the jurisdiction of the court on the ground that the action, though otherwise within the proper competence of the court, is not within it because of the amount claimed or of the value of the property in question or of the amount or value of the subject-matter involved, or, in the cases mentioned in clauses *g* and *h* of subsection 1, because the joint stock or capital of the partnership exceeds in amount or value \$50,000 or the estate of the testator exceeds in value \$50,000, he shall in his appearance or in his statement of defence state that he disputes the jurisdiction of the court and the ground upon which he relies for disputing it, and, in default of his so doing, unless otherwise ordered by the court or a judge, the question of jurisdiction shall not afterwards be raised or the jurisdiction be brought in question, and in any such action tried or disposed of in a county or district court such court has the right to award all costs of or incidental to such action on the scale of the Supreme Court in the same manner as if such action had been tried or disposed of in the Supreme Court. R.S.O. 1960, c. 76, s. 19 (2); 1961-62, c. 24, s. 5 (2); 1970, c. 98, s. 3 (12).

Transfer to  
Supreme  
Court by  
plaintiff

(3) Where the notice mentioned in subsection 2 is given, the plaintiff may, within fifteen days after the entry of appearance if the defendant has given the notice in his appearance, or within fifteen days after the filing of the statement of defence if the defendant has given the notice in his statement of defence, on praecipe require all papers and proceedings in the action to be

transmitted to the proper office of the Supreme Court in the county or district in which the action was brought, and the action is transferred to the Supreme Court when the papers and documents are so transmitted.

(4) Where the plaintiff does not exercise the right conferred by subsection 3 within the period set out therein, the defendant may, within ten days after the expiration of such period, apply to a judge of the Supreme Court for an order transferring the action to that court.

Transfer to  
Supreme  
Court by  
defendant

(5) If no application is made or praecipe issued under subsection 3 or 4 within the time prescribed therein or if an application made under subsection 4 has been refused, subject to subsection 6 and to section 15, the jurisdiction of the court to try and dispose of the action shall be deemed to be established. 1970, c. 98, s. 3 (13).

When  
jurisdiction  
established

(6) Where the court or a judge makes an order under subsection 2 allowing the defendant to question the jurisdiction of the court, the court or judge may direct the action to be transferred to the Supreme Court upon such terms as to costs and otherwise as is considered just.

Terms of  
order of  
transfer

(7) Where an action is transferred to the Supreme Court under this section, if the plaintiff is awarded costs, unless otherwise ordered by the court or a judge, the costs shall after the date of the transfer be taxed according to the scale of the Supreme Court, whether or not the action is in fact within the proper competence of the county or district court. R.S.O. 1960, c. 76, s. 19 (6, 7).

Scale of  
costs in  
action  
transferred

**15.**—(1) Where the defendant pleads a set-off or counterclaim, either party, within six days after the plaintiff has delivered his reply to the defence of set-off or his defence to the counterclaim, may apply to a judge of the Supreme Court for an order transferring the action and counterclaim to the Supreme Court on the ground that such set-off or counterclaim involves matter beyond the jurisdiction of the court.

Where set-off  
or counter-  
claim is  
beyond  
jurisdiction

(2) The judge, if satisfied that the set-off or counterclaim involves matter that exceeds the jurisdiction of the court, may order the transfer upon such terms as to costs and otherwise as he considers just.

Judge's order  
transferring

(3) If no such application is made within the time limited or if an application so made has been refused, the jurisdiction of the court to hear and determine the whole matter involved in the set-off or counterclaim shall be deemed to be established. R.S.O. 1960, c. 76, s. 20.

Jurisdiction  
established  
where no  
order of  
transfer  
made



Consequences of transfer

**16.** Where an action has been transferred to the Supreme Court or to another county or district court under this Act, it shall be in the same plight and condition as it was in at the time of the transfer, and thereafter may be proceeded with as if it had been commenced in the court into which it has been transferred. R.S.O. 1960, c. 76, s. 21.

Transfer of action to court having jurisdiction

**17.** Where it appears in an action brought in a county or district court that such court has not cognizance thereof, but that the court of some other county or district has jurisdiction to try it, the judge before whom it is pending may, at any time before or during the trial thereof, order it to be transferred to such other county or district court upon such terms as to costs and otherwise as he considers just. R.S.O. 1960, c. 76, s. 22.

Prohibition not to lie

**18.** Prohibition does not lie in respect of an action or counterclaim that may be transferred under this Act to the Supreme Court, or from one county or district court into another county or district court. R.S.O. 1960, c. 76, s. 23.

Abandonment of so much of claim as is in excess of jurisdiction

**19.**—(1) Where it appears that the claim of the plaintiff is for an amount beyond the jurisdiction of the court, he may, by writing signed by him and filed, upon such terms as the judge considers proper as to costs and otherwise, abandon the excess, and in such case the plaintiff shall forfeit such excess and is not entitled to recover it in any other action.

Idem

(2) A defendant has the like right in respect of his set-off or counterclaim. R.S.O. 1960, c. 76, s. 24.

Relief that may be granted

**20.** The court has, as regards all causes of action within its jurisdiction, power to grant and shall grant such relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to grant vesting orders and to relieve against penalties and forfeitures, but does not have power to remove a trustee or to appoint a new trustee under *The Trustee Act*, and shall give such and the like effect to every ground of defence or counterclaim, equitable or legal, by the same mode of procedure and in as full and ample a manner as might and ought to be done in the like case by the Supreme Court. R.S.O. 1960, c. 76, s. 25.

R.S.O. 1970, c. 470

In what cases and on what conditions causes are removable

**21.** Except in the cases mentioned in subsections 3, 5 and 6 of section 14 and in section 15, no action shall be removed by order of *certiorari* or otherwise into the Supreme Court unless the debt or damages claimed amount to more than \$100, and then only on affidavit and by leave of a judge of the Supreme Court, if it appears to the judge fit to be tried in the Supreme Court, and upon such terms as to costs, giving security for debt or costs and otherwise as he considers just. R.S.O. 1960, c. 76, s. 26, *amended*.

**22.**—(1) Except by consent of the parties or unless the place of trial is changed, actions under clauses *c* and *d* of subsection 1 of section 14 shall be brought and tried in the court of the county or district in which the land is situate, and actions under clause *g* of that section shall be brought and tried in the court of the county or district where the partnership has or had its principal place of business, and actions under clause *h* of subsection 1 of that section shall be brought and tried in the court of the county or district where letters probate or of administration have issued or where the deceased resided at the time of his death.

Venue for  
certain  
actions

(2) Actions for the recovery of real property shall be brought and tried in the court of the county or district in which the real property sought to be recovered is situate. R.S.O. 1960, c. 76, s. 27.

Actions for  
the recovery  
of real  
property

**23.** An action by or against a judge shall not be brought in the court of which he is judge, but shall be brought in the court of a county or district adjoining that in which he resides. R.S.O. 1960, c. 76, s. 28.

Where action  
against judge

**24.** Subject to *The Judicature Act* and to the rules of court, the practice and procedure of the Supreme Court apply to the county and district courts. R.S.O. 1960, c. 76, s. 29.

Procedure  
R.S.O. 1970,  
c. 228

**25.** Where the plaintiff fails to recover judgment by reason that the court has not jurisdiction, the court nevertheless has jurisdiction over the costs of the action or other proceeding and may order by and to whom they shall be paid. R.S.O. 1960, c. 76, s. 30.

Costs where  
action fails  
for want of  
jurisdiction

**26.** Every county and district court has the like power as is possessed by the Supreme Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the Supreme Court and they have the like force and effect as writs and process issued out of the Supreme Court. R.S.O. 1960, c. 76, s. 31.

Power to  
enforce  
judgments  
and orders

**27.** Every county and district court may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders, but the fine shall not in any case exceed \$100 nor shall the imprisonment exceed six months. R.S.O. 1960, c. 76, s. 32.

Contempt  
of court

**28.**—(1) Where it is proper to direct a reference, it may be made to any officer to whom a reference may be directed by the Supreme Court or to the clerk of the court.

References:  
generally

(2) Where the judge of the court is local master, the reference may be made to himself, but no fees shall be charged by him on such reference.

to judge

fees and  
costs

(3) Upon every such reference the fees to be paid and the costs to be allowed, whether as between party and party or solicitor and client, shall be according to the county court tariff. R.S.O. 1960, c. 76, s. 33.

Powers of  
judge as to  
reference

**29.**—(1) In an action in a county or district court the judge has the same powers with regard to the making of an order of reference as may be exercised by a judge of the Supreme Court in an action therein.

Appeal from  
referee

(2) An appeal, in like manner and within the same time as in like cases in actions in the Supreme Court, lies from the report on the reference to the judge of the county or district court in chambers, who has upon the appeal the same power as may be exercised by a judge in like cases in the Supreme Court.

Appeal to  
Court of  
Appeal

(3) An appeal lies from any order, judgment or decision of the judge of a county or district court, and from the report upon a reference made under subsection 2 of section 28 to the Court of Appeal, and the proceedings and practice on the appeal as to staying proceedings and otherwise shall be similar to the proceedings and practice relating to an appeal from a judgment under section 31.

Except  
where the  
Crown is  
a party

(4) Nothing in this section empowers the judge of a county or district court to refer any proceeding to which Her Majesty is a party, or any question or issue in any such proceeding, to an official referee, without the consent of Her Majesty. R.S.O. 1960, c. 76, s. 34.

Rehearing

**30.**—(1) Where the judge before whom an action is tried, either with or without a jury, dies before giving judgment, or having reserved his judgment after having heard the evidence does not deliver judgment within six months thereafter, any party may, upon notice to all other parties, apply to the chief judge for an order directing that the action be reheard by such judge of a county or district court as he designates.

Idem

(2) An order made under subsection 1 shall name the place where the action shall be set down and reheard, and in making such order the chief judge may give such other directions as he considers fit. 1961-62, c. 24, s. 6 (1).

Further  
evidence

(3) No further evidence shall be received upon such rehearing unless by leave of the court. R.S.O. 1960, c. 76, s. 35 (2).

Further  
proceedings

(4) No proceedings in the action shall thereafter be taken in the county court without the order of the chief judge after notice. R.S.O. 1960, c. 76, s. 35 (7); 1961-62, c. 24, s. 6 (3).

(5) Upon such rehearing, the evidence, exhibits and papers used at the trial shall be read and after argument by counsel the presiding judge shall deal with the action as on an original trial and shall direct that judgment be entered by the county court clerk in accordance with his findings. Judgment on rehearing

(6) The costs of the rehearing shall be fixed by the judge presiding at the rehearing, who shall also direct by whom they are to be paid. Costs of rehearing

(7) An appeal lies from such judgment or finding in the same manner and on the same terms as if the judgment had been pronounced at a trial in the county court. R.S.O. 1960, c. 76, s. 35 (8-10). Appeal

**31.** Any party to a cause or matter may appeal to the Court of Appeal from any judgment directed to be entered at or after the trial or from a refusal to enter a judgment. R.S.O. 1960, c. 76, s. 36. Appeal to Court of Appeal

**32.** Where a party does not appear at the trial, a motion for a new trial may be made before the judge, but in all other cases a motion for a new trial shall be made before the Court of Appeal. R.S.O. 1960, c. 76, s. 37. Motion for new trial

**33.—(1)** An appeal lies to the Court of Appeal at the instance of any party to a cause or matter from, Appeal from decision of judge

- (a) every decision or order of a judge in court or chambers under any of the powers conferred upon him by the rules of court or by a statute, unless provision is made therein to the contrary;
- (b) every decision or order in a cause or matter disposing of any right or claim;
- (c) any decision or order of a judge, whether pronounced or made at the trial, or on appeal from taxation or otherwise, that has the effect of depriving the plaintiff of county court costs on the ground that his action is of the proper competence of the small claims court, or of entitling him to county court costs on the ground that the action is not of the proper competence of the small claims court.

(2) This section does not apply to an order or decision that is not final in its nature but is merely interlocutory or where jurisdiction is given to the judge as *persona designata*. R.S.O. 1960, c. 76, s. 38. Where section not applicable

**34.—(1)** The clerk shall, at the request of the appellant, transmit to the proper officer of the Supreme Court the pleadings in the cause and all motions or orders made, granted or refused therein together with the judgment or decision and all other papers in the cause affecting the question raised by the appeal. Transmission of pleadings, etc.



Evidence,  
etc., to be  
certified

(2) The evidence and all objections and exceptions thereto, together with the judge's charge to the jury where the trial has been held with a jury, shall be certified under the hand of the stenographic reporter who was present at the trial. R.S.O. 1960, c. 76, s. 39.

Staying  
proceedings  
on appeal

**35.** Subject to section 36, the judge of the county or district court appealed from may, upon application to him, stay proceedings in the action to enable the appeal to be brought, upon such terms and for such time as he considers just. R.S.O. 1960, c. 76, s. 40.

Setting  
down  
appeals

**36.** The appeal shall be made within the time and in the manner prescribed by the rules of court. R.S.O. 1960, c. 76, s. 41.

Powers to  
amend and  
receive  
further  
evidence

**37.**—(1) The Court of Appeal has all the powers and duties, as to amendment and otherwise, of the judge appealed from, and full discretionary power to receive further evidence upon questions of fact, either by oral examination before the court or as may be directed.

Further  
evidence

(2) Such further evidence may be given without special leave as to matters that have occurred after the date of the judgment, order or decision complained of.

Idem

(3) Except as provided by subsection 2, upon an appeal from a judgment, order or decision given upon the merits at the trial or hearing, such further evidence shall be admitted on special grounds only, and not without the special leave of the court. R.S.O. 1960, c. 76, s. 42.

Order of  
Court of  
Appeal on  
appeal

**38.**—(1) On an appeal the Court of Appeal may set aside the judgment and direct any other judgment to be entered or may direct a new trial to be had, and may make such other order as to costs and otherwise as appears just.

Idem

(2) The decision of the Court of Appeal shall be certified by the registrar of the court to the clerk of the court with whom the judgment or order appealed from was entered, who shall thereupon cause the decision to be entered in the proper judgment or order book, and all subsequent proceedings may be taken thereupon as if the decision has been given in the court below. R.S.O. 1960, c. 76, s. 43.

Further  
rights of  
appeal

**39.** In the case of any decision or order made in an action by a county or district court judge in respect of which an appeal is not provided in section 33, an appeal lies to a judge of the Supreme Court, and the practice and procedure governing appeals from the Master of the Supreme Court apply to every such appeal. 1961-62, c. 24, s. 7.

**40.** Subject to the approval of the Lieutenant Governor in Rules Council, the Rules Committee may,

- (a) make rules for regulating the practice and procedure in the county and district courts;
  - (b) make rules and regulations regulating and fixing the fees payable to the Crown in respect of proceedings in such courts;
  - (c) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;
  - (d) prescribe forms and provide for their use. R.S.O. 1960, c. 76, s. 44.
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## CHAPTER 95

## The County Judges Act

**1.** In addition to the judges otherwise provided for in this Act, a Chief Judge of the County and District Courts, herein referred to as the chief judge, may be appointed, and he shall have all the powers of a judge throughout Ontario. 1961-62, c. 25, s. 1, *part*. Chief judge

**2.** A judge may be appointed for the county court of each of the counties and for the district court of each of the provisional judicial districts. R.S.O. 1960, c. 77, s. 1; 1961-62, c. 25, s. 1, *part*. Judges

**3.—(1)** A junior judge may be appointed for the county court of each of the judicial districts of Niagara North and Niagara South and for the district court of each of the districts of Cochrane, Sudbury and Thunder Bay. 1968, c. 22, s. 1, *part*; 1968-69, c. 20, s. 1 (1), *amended*. Junior judges

(2) Two junior judges may be appointed for the county court of the Judicial District of Ottawa-Carleton and of each of the counties of Essex and Wentworth. 1968-69, c. 20, s. 1 (2). Idem

(3) Three junior judges may be appointed for the county court of the county of Middlesex. 1968, c. 22, s. 1, *part*. Idem

(4) Fourteen junior judges may be appointed for the county court of the Judicial District of York. 1968, c. 22, s. 1, *part*; 1968-69, c. 20, s. 1 (3), *amended*. Idem

**4.—(1)** In addition to the judges mentioned in section 2 and the junior judges mentioned in section 3, one or more judges or junior judges, not exceeding seventeen in number, may be appointed, Additional judges

(a) for the county or district court of any county or district that the Lieutenant Governor in Council designates; or

(b) for the county and district courts of the counties and districts of Ontario. R.S.O. 1960, c. 77, s. 3 (1); 1966, c. 32, s. 1.

(2) A judge or junior judge appointed for the county and district courts of the counties and districts of Ontario shall reside in the county court district or district court district that is designated by the Lieutenant Governor in Council. R.S.O. 1960, c. 77, s. 3 (2). Residence



Extended  
jurisdiction

**5.**—(1) A judge or junior judge may perform any judicial or other function in the county or district court of any county or district in the same manner and to the same effect as a judge of that court. R.S.O. 1960, c. 77, s. 4 (1).

Rank and  
precedence

(2) After the chief judge, the judges and junior judges, respectively, have rank and precedence among themselves according to seniority of appointment. R.S.O. 1960, c. 77, s. 4 (2); 1961-62, c. 25, s. 3.

Powers of  
junior  
judges

**6.** Where a power or authority is by this Act or otherwise conferred upon or may be exercised by the judge of a county or district court, whether with reference to the holding of any of the courts of the county or district that he may hold, or to the business of any of such courts, or to any other matter or thing over which he has jurisdiction, the like power and authority are possessed and may be exercised by a junior judge, subject to the general regulation and supervision of the judge. R.S.O. 1960, c. 77, s. 6.

Not to  
practise

**7.** A judge or junior judge shall not, directly or indirectly, practise as counsel or solicitor or act as a notary public or conveyancer. R.S.O. 1960, c. 77, s. 7.

Illness  
or death  
of judge

**8.** Where a judge who has appointed a time and place for the hearing of an application, proceeding or matter becomes ill or dies, or for any other reason is unable to attend at the time and place appointed, the application, proceeding or matter may be heard by another judge of the same county or district court or by a judge who may for the time being be acting as a judge of such court. R.S.O. 1960, c. 77, s. 8.

Disposition  
of fees

**9.**—(1) All fees payable by the parties to a proceeding before the judge, or upon an order or certificate made or given by him, shall form part of the Consolidated Revenue Fund, and, except as hereinafter provided, a judge of a county or district court is not entitled to receive any fees whatever under any Act of the Legislature. R.S.O. 1960, c. 76, s. 9 (6), *amended*.

Exceptions  
as to arbi-  
trators, etc.

(2) Nothing in this section applies to or affects the payment of any allowance or fees to a judge of a county or district court with respect to any office that may be lawfully held by him in addition to his office as judge to which an annual allowance or salary is attached or in the performance of his duties as an arbitrator or referee under any statute designating him by his name of office as an arbitrator or referee.

Travelling  
expenses not  
affected

(3) Nothing in this section affects or prevents the payment to a judge of a county or district court of his travelling or other expenses when called upon to perform any duty outside the county or district town of the county or district. R.S.O. 1960, c. 77, s. 9 (7, 8).

**10.** Every judge and junior judge shall take and subscribe the following oath before the chief judge or a judge designated by him: Oath of office

I, . . . . ., do swear that I will, truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of judge of the . . . . . Court of the . . . . . of . . . . . So help me God. 1961-62, c. 25, s. 6.

**11.** Where there is more than one judge available in a county or district, the county or district court, the court of general sessions of the peace and the small claims courts may sit at the same time and the business in them may be proceeded with simultaneously. Simultaneous sittings R.S.O. 1960, c. 77, s. 11, *amended*.

**12.** The chief judge may empower the judge or a junior judge of a county or district court to hear and dispose of or otherwise deal with any matter depending in his court at any place either within or outside the county or district, as the case may be. Place of hearing 1961-62, c. 25, s. 7.

**13.**—(1) The Lieutenant Governor in Council may appoint one or more court reporters for the local courts of any county or provisional judicial district, and, where more than one is appointed for a county or provisional judicial district, the Lieutenant Governor in Council may designate one of them as the senior court reporter. Court reporters, appointment

(2) Every court reporter shall be under the direction of the judge or, in his absence, of the junior judge or judges of the county or district for the local court of which he is appointed, and, where a senior court reporter is designated, the other court reporter or reporters shall also be subject to the direction of the senior court reporter. Direction

(3) Every court reporter is entitled to such remuneration as the Lieutenant Governor in Council may prescribe. Remuneration

(4) Every court reporter who is appointed at a salary is nevertheless entitled to take for his own use fees for transcriptions unless he is expressly prohibited from so doing by the terms of his appointment. Fees for transcripts 1961-62, c. 25, s. 8 (1), *part*.

(5) Where a court reporter is appointed at a salary and is expressly prohibited from taking for his own use fees for transcriptions, he shall collect the fees for such transcriptions and pay them over to the Treasurer of Ontario. Idem 1961-62, c. 25, s. 8 (1), *part*; 1968, c. 22, s. 2 (1).

(6) The Lieutenant Governor in Council may prescribe fees for court reporters. Fees 1961-62, c. 25, s. 8 (1), *part*.

County  
court  
districts

**14.** The Lieutenant Governor in Council may order that a county or two or more counties shall form a county court district for the purposes of this Act or that a provisional judicial district or two or more provisional judicial districts shall form a district court district for the purposes of this Act. R.S.O. 1960, c. 77, s. 15 (1).

Chief judge  
president

**15.—(1)** The chief judge shall be president of the county and district courts.

Chambers

(2) The chief judge shall occupy chambers at Toronto. 1961-62, c. 25, s. 9, *part*.

Absence,  
etc.

(3) The chief judge may designate one of the other judges to act in his place for all purposes during his absence from Ontario or illness.

To supervise  
arrangement  
of sittings  
of court

(4) To ensure the dispatch of business of the various courts, including chambers, that are presided over by the judges of the county and district courts, including the surrogate and small claims courts where it is customary for the county or district court judge to act as judge of the surrogate court and the small claims court, the chief judge shall have general supervisory powers over arranging the sittings of such courts, including chambers. 1961-62, c. 25, s. 9, *part, amended*.

Meetings of  
judges

(5) For the purpose of arranging the sittings of the various courts and considering matters relating to the courts and the judges, the chief judge shall convene a meeting of the judges and junior judges of each county and district court district at least once in each year and shall preside thereat.

Idem

(6) The chief judge and the judges and junior judges of the county and district court district shall discuss and consider the time and other requirements of the various courts in the county or district court district, having regard to the efficient administration of justice in Ontario, and shall make such arrangements as may be necessary or proper for the holding of such courts, including chambers, and the transaction of such business as are customarily held and transacted by the judges and junior judges of the county or district court district with power in the chief judge to make such readjustment or reassignment as he considers necessary or proper from time to time.

Rotation

(7) In the arrangement of the courts and the assignment of judges thereto, regard shall be had to,

- (a) the desirability of rotating the judges within each county and district court district; and
- (b) the greater volume of judicial work in certain of the counties and districts,

but no judge or junior judge shall be required to sit outside his county or district court district, as the case may be, without his consent.

(8) For the purpose of considering any matter relating to the administration of justice in the county and district courts and other courts presided over by the county and district court judges, the chief judge shall assemble at Toronto once in every year all the judges and junior judges of the county and district courts and he shall preside over such meeting. 1961-62, c. 25, s. 9, *part.* Council of judges

**16.** A judge may exercise and perform in any part of his court district any power or duty that he may exercise or perform in the county or district for which he was appointed. R.S.O. 1960, c. 77, s. 20. Judge to have jurisdiction throughout court district

**17.** Where a vacancy occurs in the office of the judge of the county or district court in a county or district in a court district and the Lieutenant Governor declares that, owing to the lack of sufficient business, it is unnecessary that the vacancy be filled, the remaining judges in the court district shall arrange for the performance of the duties of the judge of the county or district court of the county or district in which the vacancy occurs by one of themselves or by some other person competent by law in that behalf, and every judge or other person so acting has the like powers and shall perform the like duties as a judge or other person competent by law in that behalf appointed or authorized for that purpose may exercise and perform under any statute of Ontario in the county or district in which the vacancy has occurred. R.S.O. 1960, c. 77, s. 21, *amended.* Where vacancy occurs and business does not warrant new appointment

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## CHAPTER 96

### The Credit Unions Act

#### 1. In this Act,

(a) “amendment of a by-law” includes a new by-law and a resolution revoking a by-law;

(b) “auditor” means a public accountant licensed under *The Public Accountancy Act*;

Interpre-  
tation

R.S.O. 1970,  
c. 373

(c) “by-laws” means by-laws approved under this Act, and includes any amendment of a by-law approved under this Act;

(d) “Director” means the Director of the Registration and Examination Branch of the Department of Financial and Commercial Affairs;

(e) “land” includes hereditaments and chattels real, and any interest therein;

(f) “meeting” includes a meeting of delegates appointed by members;

(g) “Minister” means the Minister of Financial and Commercial Affairs;

(h) “officer” includes the treasurer, secretary, manager, assistant treasurer, assistant secretary, assistant manager and any employee who has authority to approve loans;

(i) “persons claiming through a member” includes the heirs, executors, administrators and assigns of a member;

(j) “property” includes all real and personal estate;

(k) “regulations” means the regulations made under this Act;

(l) “supervisor” means the supervisor of credit unions appointed for the purposes of this Act. R.S.O. 1960, c. 79, s. 1; 1960-61, c. 16, s. 1; 1964, c. 14, s. 1; 1968-69, c. 21, s. 1 (1), *amended*.

2. All applications under this Act are subject to the approval of the Minister after consideration of the compliance of the application with this Act and of all circumstances connected therewith, and the Minister or any officer of his department to whom an application is referred may, for the purpose of any

Applications  
subject to  
approval of  
Minister

inquiry into such circumstances and the sufficiency and regularity of the application, take evidence in writing under oath. R.S.O. 1960, c. 79, s. 2, *amended*.

Idem

**3.** All applications to the Minister for incorporation shall be by memorandum of association, verified by affidavit or declaration, and a certificate of incorporation shall not be issued without the written approval of the Director. R.S.O. 1960, c. 79, s. 3; 1964, c. 14, s. 2, *amended*.

Objects of  
credit  
unions

**4.—(1)** Credit unions may be incorporated having for their object and purpose,

- (a) the receiving of moneys on deposit from members and as payment for shares;
- (b) the making of loans to members with or without security for provident and productive purposes.

Ancillary  
powers

(2) As incidental and ancillary to the objects set out in subsection 1, a credit union may,

- (a) make loans to other credit unions;
- (b) deposit moneys with and make loans to any league incorporated under section 55 or a predecessor thereof so long only as the amount so deposited or loaned does not exceed 25 per cent of its share capital and deposits;
- (c) subject to confirmation by its members at an annual or special general meeting, make donations and gifts out of its surplus income or any undivided earnings, other than the guarantee fund, for the purpose of advancing the interests of the credit union or of credit unions generally. R.S.O. 1960, c. 79, s. 4.

Number  
necessary to  
incorporate

**5.—(1)** Any number of persons not fewer than twenty, capable of contracting, may be incorporated as a credit union.

Memoran-  
dum of  
association

(2) Such persons shall sign in duplicate before two witnesses a memorandum of association in the prescribed form, and both copies, with two copies of the proposed by-laws, shall be forwarded to the Minister. R.S.O. 1960, c. 79, s. 5, *amended*.

Certificate  
of incor-  
poration

**6.—(1)** Upon receipt of the documents mentioned in subsection 2 of section 5, the Minister may, in his discretion, refuse to issue a certificate of incorporation or may issue a certificate of incorporation.

Return of  
memoran-  
dum

(2) One copy of the memorandum of association shall be retained by the Minister and the other copy of such memorandum, to which the certificate of incorporation shall be affixed, shall be forwarded to the credit union. R.S.O. 1960, c. 79, s. 6 (1, 2), *amended*.

(3) On and after the date of the certificate of incorporation, the credit union is a corporation under the name set forth in the certificate, and all property for the time being vested in any person in trust for the credit union is vested in the credit union and the certificate of incorporation and the by-laws of the credit union, together with this Act, constitute the charter of the credit union. R.S.O. 1960, c. 79, s. 6 (3). Date of incorporation;  
vesting of property

(4) The Minister shall cause notice of the issue of a certificate of incorporation to be given in *The Ontario Gazette* and to the Director. R.S.O. 1960, c. 79, s. 6 (4); 1964, c. 14, s. 3, *amended*. Notice

**7.** The production of a copy of *The Ontario Gazette* containing the notice of incorporation of a credit union is conclusive evidence that the credit union was duly incorporated. R.S.O. 1960, c. 79, s. 7. Evidence of incorporation

**8.** The membership of a credit union shall be limited to persons having a common bond of occupation or association or to persons within a well-defined neighbourhood or community. R.S.O. 1960, c. 79, s. 8. Membership

**9.**—(1) Every credit union shall have a registered office to which all communications and notices shall be sent, and the credit union shall send to the supervisor written notice in duplicate of the location of its registered office and of every change of location. R.S.O. 1960, c. 79, s. 9 (1). Registered office

(2) The supervisor shall transmit one copy of such notice to the Minister. R.S.O. 1960, c. 79, s. 9 (2), *amended*. Idem

**10.** A corporation that is subject to this Act may, by by-law, provide for the holding, purchasing or leasing in its own name of such real estate as is necessary for its own use and benefit for the transaction of its business and may sell, mortgage or dispose of it, and, with the written consent of the Director, may lease, acquire or construct a building larger than is required for the transaction of its business, and lease any part of the building not so required. 1964, c. 14, s. 4. Power to hold real estate

**11.** No credit union shall be incorporated under a name identical with that of any other credit union or of any corporation or organization or under a name so nearly resembling that of any other credit union, corporation or organization as, in the opinion of the Minister, to be likely to deceive. R.S.O. 1960, c. 79, s. 11, *amended*. Name

**12.** The word "Limited" or "Limitee" shall be the last word of the name of every credit union. R.S.O. 1960, c. 79, s. 12. "Limited" or "Limitee" in name



Use of words  
"credit  
union"

**13.** Every person, not being a credit union to which this Act applies, that trades or carries on business under a name or title of which the words "credit union" form a part is guilty of an offence under this Act. R.S.O. 1960, c. 79, s. 13.

Change of  
name, by  
Minister

**14.**—(1) The Minister may at any time by order change the name of a credit union where he considers it to be identical with the name of any other credit union or any corporation or organization or so nearly to resemble any such name as to be likely to deceive or if for any other reason he considers it to be objectionable.

Idem

(2) A credit union may, if authorized by a resolution passed by two-thirds of its members present at a general meeting called for that purpose, apply to the Minister for an order changing its name.

Notice

(3) The Minister shall cause notice of the change of name of a credit union to be given in *The Ontario Gazette*.

Effect of  
change of  
name

(4) A change of name of a credit union does not affect any right or obligation of the credit union or of any member thereof, and any pending legal proceedings may be continued by or against the credit union notwithstanding such change. R.S.O. 1960, c. 79, s. 14, *amended*.

By-laws

**15.** By-laws of a credit union may,

- (a) prescribe the purposes for which the profits of the credit union may be appropriated;
- (b) prescribe the maximum number of shares that may be held by a member thereof;
- (c) prescribe the maximum amount that may be deposited by or loaned to a member thereof;
- (d) provide for the expulsion and withdrawal of members thereof;
- (e) prescribe the form of any instrument necessary for carrying the purposes of the credit union into effect; and
- (f) provide for such matters as are authorized by the regulations. R.S.O. 1960, c. 79, s. 15.

Approval of  
by-laws

**16.**—(1) No by-law or amendment of a by-law is operative until it has been approved by the supervisor, for which purpose two copies thereof, signed by three members and the secretary or by the president and the secretary, shall be sent to the supervisor.

Idem

(2) The supervisor, on being satisfied that a by-law or amendment of a by-law has been duly passed by the credit union, may approve it. R.S.O. 1960, c. 79, s. 16.

**17.** The by-laws of a credit union bind the credit union and every member thereof and every person claiming through a member to the same extent as if the member had subscribed his name and affixed his seal thereto and as if there were contained in such by-laws a covenant on the part of the member, his heirs, executors, administrators and assigns to conform thereto subject to this Act. R.S.O. 1960, c. 79, s. 17.

By-laws,  
effect of

**18.** A copy of the by-laws of a credit union shall be delivered by the credit union to every member on demand on payment of the sum fixed by the by-laws. R.S.O. 1960, c. 79, s. 18.

Copies of  
by-laws

**19.** A credit union may create a capital divided into shares, and the amount thereof, the number of shares, and the payments thereon, shall be determined by its by-laws, but the amount of each share shall in no case exceed \$10. R.S.O. 1960, c. 79, s. 19.

Capital,  
how created

**20.—(1)** The capital of a credit union may, subject to the by-laws, be increased by subscriptions for new shares or the admission of new members, and it may be diminished by withdrawals.

Capital,  
how in-  
creased and  
diminished

(2) After the first application for a share or shares by a member, payment on account of additional shares shall be deemed to be an application for such additional shares and receipt of the payments by the credit union shall be deemed to be an allotment of such shares.

Additional  
shares

(3) A member is not liable to the credit union for shares subscribed for in excess of the amount actually paid thereon. R.S.O. 1960, c. 79, s. 20.

Member's  
liability  
for shares

(4) Where the board of directors determines that the credit union has suffered an impairment of capital, the board may by resolution fix the proportion of money invested in shares that may be withdrawn, and so long as any impairment of capital exists, may from time to time change the proportion that may be withdrawn.

Where  
capital  
impaired

(5) After the passing of such a resolution, no member of the credit union is entitled to withdraw any portion of the money invested in shares in excess of the proportion specified in the resolution until the resolution has been revoked by the board, or to set off against any debts owing by him to the credit union a greater proportion of the money invested in shares than is specified in the resolution.

Idem

(6) No resolution passed under subsection 4 applies to money invested in shares after the date of the resolution. 1960-61, c. 16, s. 2.

Idem

Shares  
in trust

**21.** A member, in addition to holding shares in his own name, may subscribe for and hold shares and make deposits in trust for a named beneficiary, and such beneficiary without payment of any entrance fee shall be deemed to be a member of the credit union only for the purpose of qualifying for life insurance under a group policy of insurance purchased by the credit union on the lives of its members and is not entitled to notice of meetings or to vote at meetings. R.S.O. 1960, c. 79, s. 21.

Joint  
accounts

**22.** Two or more members may hold their shares and deposits in a joint account, and, in the absence of written notice to the contrary, payment by the credit union to any of such members or to the survivor or any of the survivors of such members of any money standing to the credit of the joint share or deposit account discharges the credit union from any further liability for such payment. R.S.O. 1960, c. 79, s. 22.

Corporate  
members

**23.**—(1) A corporation may become a member of a credit union where,

- (a) in the case of a corporation having share capital, the persons holding equity shares carrying at least 51 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding are members of that credit union;
- (b) in the case of a corporation without share capital, at least 51 per cent of the members of the corporation are members of that credit union.

Loans to  
corporate  
members

(2) A credit union shall not make a loan to a member that is a corporation unless the loan is approved by a joint meeting of the board of directors, the credit committee and the supervisory committee of the credit union. 1968-69, c. 21, s. 2.

Votes

**24.** No member shall have more than one vote, and voting by proxy shall be allowed only when shares are held by an agricultural association, a municipal body, a school board, or other corporation. R.S.O. 1960, c. 79, s. 24.

Members  
under 21

**25.** Subject to the by-laws, a person under the age of twenty-one years may be a member of a credit union, and every such person may enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the by-laws, but shall not be a trustee, manager, treasurer or a member of the board of directors, credit committee or supervisory committee of the credit union and does not have the right to borrow any amount in excess of his savings in the credit union except upon a joint and several promissory note signed by him and by a person over twenty-one years of age. R.S.O. 1960, c. 79, s. 25.

**26.**—(1) Every credit union shall keep a register or list of members and shares. Register of members and shares

(2) The register or list, as the case may be, is *prima facie* Idem evidence of any of the following matters entered therein:

1. The names and addresses of the members and the number of shares held by each member.
2. The date on which the name of any person or corporation was entered in the register or list as a member.
3. The date on which any person or corporation ceased to be a member. R.S.O. 1960, c. 79, s. 26.

**27.**—(1) All moneys payable by a member to a credit union are a debt due from the member to the credit union and are recoverable as such in a court of competent jurisdiction. Recovery of moneys payable by member

(2) A credit union has a lien on the shares and deposits of a member for any debt due to it by him, and may set off any sum standing to the credit of such member on the books of the credit union in or towards the payment of such debt. R.S.O. 1960, c. 79, s. 27. Credit union has lien on shares

**28.**—(1) Where the combined share capital and the deposits of a credit union exceed \$100,000 and it has appointed an auditor under subsection 11 of section 35 and it has an accounting system satisfactory to the Director and its board of directors has authorized the practice, it may, so long only as the Director approves in writing, permit its members to use negotiable orders for the withdrawal of moneys on deposit. Negotiable orders

(2) Any credit union to which the Director has given his approval under subsection 1 shall not make any loan and shall not invest in funds otherwise than in government securities and municipal securities if the aggregate of, Liquid assets

- (a) its cash on hand or on deposit in chartered banks, the Province of Ontario Savings Office, trust companies, leagues under this Act, or co-operative credit societies subject to the *Co-operative Credit Associations Act* (Canada); and 1952-53, c. 28 (Can.)
- (b) the face value of its investments in bonds and debentures of or guaranteed by the Government of Canada or any province thereof or by a municipal corporation in Canada, excluding any such investments that are pledged as security for money borrowed by the credit union,

is less than 20 per cent of the amount of money deposited with the credit union that is withdrawable by negotiable order.

(3) The Director may at any time revoke any approval given under subsection 1. 1964, c. 14, s. 5 (1). Revocation of approval



Overdrafts  
prohibited

**29.**—(1) No officer or employee of a credit union shall permit any withdrawal of moneys from the deposit or share account of a member unless the amount in such deposit or share account is equal to or in excess of the amount sought to be withdrawn, and any such officer or employee who contravenes this subsection is guilty of an offence under this Act.

General  
authoriza-  
tions to  
transfer  
moneys  
prohibited

(2) No credit union shall accept any general authorization to transfer moneys from a member's share account or other account to a deposit account from which withdrawals by negotiable orders may be made, but may make such transfers only upon the express authorization of the member in writing given in each case.

Remedies  
not  
affected

(3) Nothing in this section curtails, abridges, defeats or otherwise affects any remedy for the recovery from a member of any amount withdrawn in excess of the amount standing to his credit in his deposit or share account. 1964, c. 14, s. 6.

Guarantee  
fund

**30.**—(1) Subject to subsection 5, every credit union shall set aside at least 20 per cent of its yearly net profits as a guarantee fund to meet losses, and the fund shall be held as a reserve against uncollectable loans and losses, but, where at the close of any fiscal year the amount set aside for the guarantee fund equals at least 10 per cent of the total amount received from members on deposit and as payment for shares, the directors may, subject to the approval of two-thirds of the members present at the annual meeting, direct that no moneys be set aside for the guarantee fund for the then current year. R.S.O. 1960, c. 79, s. 28 (1); 1964, c. 14, s. 7 (1).

Educational  
fund

(2) A credit union may by resolution of the members provide that, after making provision for the guarantee fund and before declaring a dividend, an amount not exceeding 5 per cent of the net earnings be set aside in a special fund to be used for such educational purposes as are specified in the resolution.

Entrance  
fees and  
fines

(3) Entrance fees and fines, if any, shall be added to the guarantee fund, but an amount not exceeding \$70 may, in the discretion of the board of directors, be withdrawn therefrom to cover organization expenses incurred during the first year of operations.

Uncollect-  
able loans

(4) Subject to the approval of the board of directors and the supervisory committee, the outstanding principal balance of any uncollectable loan, after crediting to such principal any moneys to the credit of the member on shares and deposits, shall be charged to the guarantee fund and no charge shall be made to the guarantee fund for fines or interest on any such loan from the date of the last interest payment made by the borrower nor shall the amount standing to the credit of the member on shares or deposits be applied towards payment of fines or interest. R.S.O. 1960, c. 79, s. 28 (2-4).

(5) The directors of a credit union whose combined share capital and deposits exceed \$500,000 and whose guarantee fund equals at least 5 per cent of the total amount received from members on deposit and as payment for shares may, with the approval in writing of the Director and with the approval of two-thirds of the members present at an annual or special meeting, direct that no moneys or that a sum less than that required by subsection 1 be set aside for the guarantee fund. Idem

(6) The Director may at any time revoke or alter any approval given under subsection 5. 1964, c. 14, s. 7 (2). Withdrawal of consent

**31.** A credit union may by by-law provide for accepting moneys for deposit in respect of which a specified rate of interest is payable only if the deposit is not withdrawn for a fixed term, and the credit union shall set aside a reserve fund, adjusted annually, in the amount of the interest accruing on such deposits. 1966, c. 33, s. 1. Term deposits

**32.**—(1) Subject to clauses *a* and *b* of subsection 2 of section 4, no credit union shall advance money by discount, loan or otherwise to, or accept deposits from, persons other than its members. Advances to members only

(2) Interest together with all charges and penalties shall not exceed 1 per cent per month on the unpaid balance of any loan. Interest rate on loans

(3) No officer or member of a committee or of the board of directors of a credit union shall borrow an amount in excess of the aggregate of his fully-paid-up shares and deposits unless such loan is approved by the directors and the supervisory committee in addition to the approval required by the credit committee. R.S.O. 1960, c. 79, s. 29. Loans to officers

**33.**—(1) Every credit union shall at its first general meeting elect from its members a board of directors of at least five members who shall hold office for such term as the by-laws prescribe and until their successors are elected. R.S.O. 1960, c. 79, s. 30 (1). Board of directors

(2) No person shall be a director of a credit union of which he is a full-time employee. 1966, c. 33, s. 2 (1). Employees

(3) The board of directors shall perform such duties as are prescribed by this Act, the regulations, and the by-laws of the credit union. Duties of board

(4) The by-laws may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than three years. Election in rotation

(5) A majority of the board of directors constitutes a quorum. Quorum

- Vacancies (6) So long as there is a quorum of directors in office, any vacancy occurring on the board of directors may be filled until the next annual meeting by the directors then in office.
- Idem (7) When a quorum of directors is not in office, the director or directors then in office shall forthwith call a general meeting of the members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any member.
- Idem (8) When a member of the board of directors fails to attend three consecutive meetings of the board without, in the opinion of the board, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the board, his position on the board may be declared vacant by the remaining members of the board and the vacancy shall be filled as provided in this section. R.S.O. 1960, c. 79, s. 30 (2-7).
- Credit committee **34.**—(1) Subject to subsections 8 and 10, every credit union shall at its first general meeting elect from its members a credit committee of at least three members, who shall not be members of the board of directors or the supervisory committee or officers of the credit union, and who shall hold office for such term as the by-laws prescribe and until their successors are elected, but, if the by-laws so provide, the president shall be a member *ex officio* of the credit committee. R.S.O. 1960, c. 79, s. 31 (1); 1960-61, c. 16, s. 3 (1).
- Election in rotation (2) The by-laws may provide for the election and retirement of members of the credit committee in rotation, but in that case no member of the credit committee shall be elected for a term of more than three years.
- Quorum (3) A majority of the credit committee constitutes a quorum.
- Vacancies (4) Any vacancy occurring in the credit committee may be filled by the board of directors until the next annual meeting.
- Idem (5) When a member of the credit committee fails to attend three consecutive meetings of the committee without, in the opinion of the board of directors, having a reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the board of directors and the vacancy shall be filled as provided in this section.
- Duties (6) It is the duty of the credit committee to consider all applications and approve all loans to members. R.S.O. 1960, c. 79, s. 31 (2-6).

(7) The credit committee may upon such terms as it determines, Delegation of powers

- (a) authorize the treasurer or manager, without obtaining its approval, to make loans in amounts not exceeding the shares and deposits of the borrower less any debts owing by him to the credit union; or
- (b) authorize the treasurer, manager or other person, without obtaining its approval, to make loans in amounts not exceeding \$100 for periods not exceeding three months. R.S.O. 1960, c. 79, s. 31 (7); 1966, c. 33, s. 3 (1).

(8) A credit union may by by-law provide that the board of directors shall appoint one or more employees to perform all or such part of the duties of the credit committee as are specified in the by-law. 1960-61, c. 16, s. 3 (2), *part*. Subdelegation of power

(9) A credit union, other than a credit union league, shall not appoint the secretary, treasurer or manager of the credit union, or his assistant, under a by-law passed under subsection 8. 1966, c. 33, s. 3 (2). Officers not to be appointed

(10) If the by-law provides that the person or persons so appointed shall perform all the duties of the credit committee, it shall provide that, as long as the by-law remains in force, it shall not be necessary to elect a credit committee as required by subsection 1 or that, as long as the by-law remains in force, the credit committee shall have only the powers of an advisory committee. Idem

(11) No loan that is greater than the maximum amount that may be loaned to a member as set out in the by-laws of the credit union shall be approved. 1960-61, c. 16, s. 3 (2), *part*. Maximum loans

**35.**—(1) Subject to subsection 15, every credit union shall at its first general meeting elect from its members a supervisory committee of three members, who shall not be members of the board of directors or the credit committee or officers of the credit union, and who shall hold office for such term as the by-laws prescribe and until their successors are elected. Supervisory committee

(2) The by-laws may provide for the election and retirement of members of the supervisory committee in rotation, but in that case no member shall be elected for a term of more than three years. Election in rotation

(3) Two members of the supervisory committee constitute a quorum.

(4) So long as there is a quorum of members of the supervisory committee in office, any vacancy occurring in the supervisory committee may be filled until the next annual meeting by the members of the supervisory committee then in office. Vacancies



- Idem (5) When a quorum of members of the supervisory committee is not in office, the directors may fill the vacancies until the next annual meeting or may forthwith call a general meeting of the members to fill the vacancies.
- Idem (6) When a member of the supervisory committee fails to attend three consecutive meetings of the committee without, in the opinion of the board of directors, having a reasonable cause therefor, or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the remaining members thereof and the vacancy shall be filled as provided in this section.
- Duties (7) The supervisory committee shall from time to time examine and audit the books of the credit union and the deposit books of the members and shall check the cash, investments and securities of the credit union. R.S.O. 1960, c. 79, s. 32 (1-7).
- Misappropriation of funds, etc. (8) In the event of any of the funds, securities or other property of the credit union being misappropriated or misdirected or in the event of any of the by-laws of the credit union being contravened by the board of directors or by the credit committee or by a member thereof or by an officer or employee engaged by the board of directors, the supervisory committee shall forthwith advise the supervisor in writing and shall call a general meeting of the credit union, and, pending the holding of the general meeting, the committee may suspend any member of the board of directors or credit committee or any officer or employee until the general meeting and may appoint a member of the credit union to perform the duties of the person so suspended. R.S.O. 1960, c. 79, s. 32 (8); 1960-61, c. 16, s. 4 (1).
- Idem (9) The supervisory committee shall report to the general meeting all the circumstances of such misappropriation or misdirection of funds, securities or other property and the reasons for such suspension, and the members of the credit union may by a vote of two-thirds of the members present at the meeting, or at any adjournment thereof, dismiss from office any person so suspended, and, when the members of the credit union do not so vote to dismiss from office any person so suspended, the person shall be reinstated forthwith.
- Annual report (10) The supervisory committee shall submit a written report to each annual general meeting.
- Auditors (11) A credit union may, by by-law, provide for the appointment of an auditor or auditors in lieu of or in addition to the supervisory committee and may delegate to such auditor or auditors the whole or such part of the duties of the supervisory committee as the by-law provides.

(12) The members of the credit union may fix the remuneration of the auditor or auditors or may delegate to the board of directors authority to fix such remuneration. R.S.O. 1960, c. 79, s. 32 (9-12). Remuneration of auditors

(13) If a majority of the supervisory committee suspects that any of the funds, securities or other property of the credit union have been misappropriated or misdirected, the supervisory committee may, with the written approval of the supervisor, appoint an auditor or auditors to assist it in ascertaining whether any of the funds, securities or other property of the credit union have in fact been misappropriated or misdirected and the remuneration of any auditor or auditors so appointed shall be paid by the credit union. R.S.O. 1960, c. 79, s. 32 (13); 1960-61, c. 16, s. 4 (2). Special audit

(14) The supervisory committee may appoint such persons as it considers necessary to assist it in performing its duties, and the remuneration to be paid to such persons shall be determined by the board of directors. Clerks

(15) Where a credit union pursuant to subsection 11 has passed a by-law appointing an auditor or auditors to perform the duties of the supervisory committee set forth in subsections 7 and 10, the by-law may delegate the remaining powers and duties of the supervisory committee to the board of directors and provide that so long as the by-law remains in force it is not necessary to elect the supervisory committee as required by subsection 1. R.S.O. 1960, c. 79, s. 32 (14, 15). Delegation of powers to board of directors

**36.** All payments to officers of a credit union for services rendered shall be approved by its board of directors. R.S.O. 1960, c. 79, s. 33. Payments to officers

**37.** Every officer or employee engaged by the board of directors of a credit union who receives or has charge of money shall before assuming the duties of his office furnish a bond for the due accounting of moneys received by him and the faithful performance of his duties with such sureties and in such form and amount as the board of directors may determine. R.S.O. 1960, c. 79, s. 34. Bond of officers

- 38.—**(1) The funds of a credit union may be invested, Investment of funds
- (a) in any investment that is authorized by *The Insurance Act* for the investment of funds of joint stock insurance companies other than the investments authorized by clauses o and q of subsection 1 of section 355 of that Act; R.S.O. 1970, c. 224
  - (b) in any investment, where such investment is approved by a resolution passed by a two-thirds majority of those present at a meeting of the members called for the purpose, but in no case shall a resolution under this

clause affect more than 10 per cent of the share capital and deposits of the credit union and in no case shall the aggregate of all investments of the credit union under this clause exceed 25 per cent of its share capital and deposits; or

- (c) in the paid-up shares of a credit union league incorporated under section 55, but the amounts so invested shall not exceed 25 per cent of the share capital of the credit union. R.S.O. 1960, c. 79, s. 35 (1); 1960-61, c. 16, s. 5; 1966, c. 33, s. 4.

Idem

(2) Any investment made by a credit union before the 7th day of June, 1949, that does not comply with this section may be retained by the credit union, but shall be disposed of at such time as is determined by the Director. R.S.O. 1960, c. 79, s. 35 (2); 1964, c. 14, s. 8.

Representa-  
tion by  
proxy

(3) A credit union that has invested any part of its funds in the shares or on the security of any other corporation may appoint as proxy any one of the members of such credit union.

Extent of  
power of  
proxy

(4) The proxy shall, during the continuance of his appointment, be deemed to be the holder of any such shares for all purposes except the transfer of such shares or the giving of receipts for any dividend thereon. R.S.O. 1960, c. 79, s. 35 (3, 4).

Borrowing  
money

**39.** The board of directors of a credit union may pass resolutions for borrowing money, but at no time shall the total amount borrowed exceed 50 per cent of its capital, deposits and surplus. R.S.O. 1960, c. 79, s. 36.

Saving

**40.** Nothing in section 39 limits the amount that may be received on deposit from members. R.S.O. 1960, c. 79, s. 37.

Must be by  
two-thirds  
vote

**41.—**(1) No resolution referred to in section 39 takes effect until it has been confirmed by a vote of not less than two-thirds of the members present or represented by proxy at a general meeting of the credit union, duly called for considering the resolution by notice specifying the terms of the resolution to be confirmed, or until unanimously sanctioned in writing by the members of the credit union, but no confirmation of any such resolution is required when the total sum borrowed does not exceed 25 per cent of the capital, deposits and surplus of the credit union. R.S.O. 1960, c. 79, s. 38.

Term of  
confirma-  
tion

(2) A confirmation of a resolution by the members of a credit union under subsection 1 shall not be given for a term exceeding one year. 1966, c. 33, s. 5.

**42.**—(1) The board of directors may charge, hypothecate, mortgage or pledge the real or personal property, rights and powers, undertaking, franchises, including book debts, to secure any liability of the credit union authorized by resolution and confirmed as provided in this Act. Mortgaging assets

(2) No assignee, mortgagee, pledgee, chargee or hypothec holder is bound to inquire as to the authority for any such assignment, mortgage, pledge, charge or hypothec by a credit union, and the receipt of the credit union is a discharge for all moneys arising from or in connection with such assignment, mortgage, pledge, charge, hypothec or other security. R.S.O. 1960, c. 79, s. 39. Effect of receipt

**43.**—(1) Where a member of a credit union dies, the directors may pay, Failure to file annual statement

- (a) an amount not exceeding \$1,250 out of the amount on deposit in the name of the deceased or for the shares of the deceased; and
- (b) an amount not exceeding \$1,250 out of any money that is received by the credit union under any policy of insurance on the life of the deceased,

to any person who the directors are satisfied, by statutory declaration attested to not sooner than thirty days after the death, is entitled.

(2) A payment made under subsection 1 discharges any obligation of the credit union or its directors in respect of the money paid but does not affect the right of any other person claiming to be entitled to recover such money from the person to whom it was paid. Effect of payment

(3) Where a member of a credit union dies holding shares or money on deposit in his name in trust for a named beneficiary, the credit union may pay the amount of such shares or deposit to the executor or administrator of the estate of the deceased member, subject to the trusts or, where there is no executor or administrator, to the beneficiary or, where the beneficiary is an infant, to his parent or guardian. 1968-69, c. 21, s. 3 (1). Deposits or shares in trust

**44.** Where moneys are held by a credit union to the credit of one of its members by reason of a deposit made or shares held by such member and the credit union is unable after reasonable efforts to locate the person entitled to such moneys, the credit union may pay such moneys to the Treasurer of Ontario and the Treasurer of Ontario may pay such moneys to the person entitled thereto upon satisfactory proof being furnished by such person that he is the person entitled to receive such moneys. R.S.O. 1960, c. 79, s. 42. Unclaimed credits



Annual  
meeting

**45.**—(1) The annual meeting of a credit union shall be held at such time and place as its by-laws provide, and, in default of provisions in that behalf, the annual meeting shall be held at its registered office on the fourth Wednesday in January.

Business  
to be dealt  
with

(2) At such meeting, the board of directors shall place the following before the credit union:

1. A balance sheet made up to a date not more than three months before such meeting.
2. A statement of income and expenditure for the financial period ending upon the date of such balance sheet.
3. The report of the supervisory committee.
4. Such further information respecting the credit union's financial position as its by-laws require.

What  
balance  
sheet to  
show

(3) The balance sheet shall be drawn up so as to distinguish at least the following classes of assets and liabilities:

1. Cash.
2. Debts owing to the credit union from its members.
3. Land and buildings.
4. Debts owing by the credit union secured by mortgage or other lien upon its property.
5. Debts owing by the credit union but not secured.
6. Amount received on shares.
7. Amount held on deposit. R.S.O. 1960, c. 79, s. 43.

Dividends  
on shares  
held during  
year

**46.** At each annual meeting a credit union may by resolution upon the recommendation of the board of directors declare a dividend payable to all members at the end of the previous fiscal year on the amounts paid in on shares held by such members at any time during the year as may be determined by the resolution. R.S.O. 1960, c. 79, s. 44.

Annual  
statement  
to be given  
to members

**47.** Every credit union shall without charge supply to every member or other person interested in its funds, upon application therefor or as provided by its by-laws, a copy of its last annual balance sheet and return. R.S.O. 1960, c. 79, s. 45.

Inspection  
of books

**48.**—(1) Except as provided in this Act, no member or other person has any right to inspect the books of a credit union.

Idem

(2) Any member or other person having an interest in the funds of a credit union may inspect his own account and the books containing the names of the members at all reasonable hours at its

registered office or at whatever other place they are kept, subject to such conditions as to time and manner of inspection as the by-laws may prescribe.

(3) A credit union may by by-law authorize the inspection of any of its books therein mentioned, in addition to the books containing the names of members, under such conditions as are thereby prescribed, and no person, unless he is an officer of the credit union or is specifically authorized by a resolution thereof, has the right to inspect the loan or deposit account of any other member without such other member's written consent. R.S.O. 1960, c. 79, s. 46. As to loan or deposit accounts of members

**49.** Every dispute not of a pecuniary character, and every dispute of a pecuniary character in which the amount involved does not exceed \$100, between a member of a credit union or a person aggrieved who has for not more than six months ceased to be a member of the credit union, or a person claiming through any such member or person, or claiming under the by-laws of the credit union, and the credit union or any officer thereof, shall be decided in the manner prescribed by its by-laws where its by-laws provide therefor. R.S.O. 1960, c. 79, s. 47. Disputes

**50.**—(1) Upon the application of one-tenth of the members of a credit union, or of 100 members in the case of a credit union having more than 1,000 members, the Director may, Examination by supervisor; special meeting

(a) direct the supervisor to examine into and report upon the affairs of the credit union;

(b) call a special meeting of the credit union. R.S.O. 1960, c. 79, s. 48 (1); 1960-61, c. 16, s. 6; 1964, c. 14, s. 9 (1).

(2) Every such application shall be supported by such evidence as the Director requires, and the Director may require that notice in such form and manner as he prescribes be given to the credit union or the members thereof. R.S.O. 1960, c. 79, s. 48 (2); 1964, c. 14, s. 9 (2). Notice

(3) The Director may require the applicant to furnish security for the costs of the examination or meeting. R.S.O. 1960, c. 79, s. 48 (3); 1964, c. 14, s. 9 (3). Security for costs

(4) All expenses of and incidental to the examination or meeting shall be defrayed by the persons applying therefor or out of the funds of the credit union, or by the members or officers or former members or officers of the credit union, as the Director directs. R.S.O. 1960, c. 79, s. 48 (4); 1964, c. 14, s. 9 (4). Expenses, how defrayed

(5) The Director may direct the time and place at which the special meeting shall be held and may prescribe the matters that shall be discussed and determined at the meeting, and all the provisions of the by-laws of the credit union relating to general meetings apply to the special meeting. R.S.O. 1960, c. 79, s. 48 (5); 1964, c. 14, s. 9 (5). Special meeting

Annual  
statements

**51.** A credit union shall not later than three months after the end of its fiscal year deliver to the supervisor, in the form prescribed by him, an audited statement of its receipts and expenditures, assets and liabilities, and such statement shall also contain such other information as he requires. R.S.O. 1960, c. 79, s. 49; 1960-61, c. 16, s. 7.

Information  
for  
supervisor

**52.**—(1) A credit union shall furnish the supervisor with such statements with respect to its business, finances and other affairs and with such other information as he requires. R.S.O. 1960, c. 79, s. 50 (1); 1960-61, c. 16, s. 8 (1).

Verification

(2) The statement and other information required shall be certified by the supervisory committee and shall be verified by the affidavit of the president and of the treasurer or manager. R.S.O. 1960, c. 79, s. 50 (2).

Inspection

(3) The supervisor or any person authorized by the Director may inspect and examine into the conditions and affairs of any credit union and shall be given access to all books, records and other documents and may make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as they become due, and whether or not it has complied with this Act, and the officers and employees shall facilitate such inspection and examination. R.S.O. 1960, c. 79, s. 50 (3); 1960-61, c. 16, s. 8 (2); 1964, c. 14, s. 10 (1).

Examination  
under oath

(4) The supervisor or any person authorized by the Director may examine under oath officers, employees, members and members of any board of any credit union in order to obtain any information that he considers necessary for the purpose of an inspection or examination, and, upon such inspection or examination, the supervisor or any person so authorized has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 79, s. 50 (4); 1960-61, c. 16, s. 8 (3); 1964, c. 14, s. 10 (2).

R.S.O. 1970,  
c. 379

Reports

(5) The supervisor may, and at the request of the Director shall, prepare, from statements filed by the credit unions and from inspections and examinations, a report showing particulars of the business of each credit union and every such report may be printed, and, if printed, shall be published forthwith. R.S.O. 1960, c. 79, s. 50 (5); 1960-61, c. 16, s. 8 (4); 1964, c. 14, s. 10 (3).

Examination  
by Director

**53.**—(1) Where it appears to the Director from an examination of the condition and affairs of a credit union that any of the funds, securities or other property of the credit union may have been misappropriated or misdirected or that the records do not show the true financial position of the credit union, he may appoint an auditor or auditors to make such examination and

audit of the affairs of the credit union as he considers necessary, and the remuneration of any auditor or auditors so appointed shall be paid by the credit union. R.S.O. 1960, c. 79, s. 51 (1); 1964, c. 14, s. 11 (1).

(2) Where it appears to the Director from an examination of <sup>Idem</sup> the condition and affairs of a credit union that the assets are shown on the statement mentioned in section 51 at an amount greater than the true value, he may require the credit union to set aside out of earnings such additional reserves as he considers necessary, and, where in his opinion the value of the assets of the credit union is less than its liabilities, including the share accounts of its members, the Director may prohibit the credit union from taking further deposits or payments on shares from members or from making any payments to its members, or may limit such payments for such period as he considers necessary to protect the interests of the members, and he may take such other action as he considers necessary for the protection or in the interest of the members, including the calling of meetings of members and having his representative attend the meeting for the purpose of explaining the situation to the members. R.S.O. 1960, c. 79, s. 51 (2); 1964, c. 14, s. 11 (2).

(3) The Director may order a credit union to discontinue doing <sup>Suspension of business</sup> business for such time as he determines if, after an inspection thereof, he is satisfied that the continuance in business of the credit union is not in the public interest. R.S.O. 1960, c. 79, s. 51 (3); 1964, c. 14, s. 11 (3).

**54.**—(1) Any credit union that considers itself aggrieved by a <sup>Appeal</sup> decision of the Director may appeal therefrom to the Court of Appeal. R.S.O. 1960, c. 79, s. 52 (1); 1964, c. 14, s. 12 (1).

(2) The appeal shall be set down for argument at the first <sup>When to be set down</sup> sitting of the Court of Appeal that commences after the expiration of thirty days from the decision complained of.

(3) The practice and procedure upon and in relation to the <sup>Procedure</sup> appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action. R.S.O. 1960, c. 79, s. 52 (2, 3).

(4) The Director shall certify to the Registrar of the Supreme <sup>Record</sup> Court the decision appealed from, his reasons therefor, and the documents, information and material he had before him in making such decision. R.S.O. 1960, c. 79, s. 52 (4); 1964, c. 14, s. 12 (2).

**55.**—(1) Ten or more credit unions may be incorporated as a <sup>Incorporation of league</sup> league for the object and purpose of,

- (a) protecting and advancing the credit unions that are members of the league;



- (b) encouraging and assisting educational and advisory work relating to credit unions;
- (c) arranging for group bonding of credit union employees and ensuring repayment of loans made by credit unions to their members;
- (d) receiving moneys from its members either as payment on shares or as deposits; and
- (e) making loans to credit unions that are members of the league. R.S.O. 1960, c. 79, s. 53 (1).

Signature of  
president,  
treasurer or  
manager

(2) The president and the treasurer or manager of each such credit union shall sign in duplicate before two witnesses a memorandum of association in the prescribed form and both copies, accompanied by the proposed by-laws, shall be forwarded to the Minister.

Certificate  
of incor-  
poration  
of league

(3) Upon receipt of the documents mentioned in subsection 2, the Minister may in his discretion refuse to issue a certificate of incorporation or may issue a certificate of incorporation, and upon incorporation the provisions of this Act applicable to credit unions, except where inconsistent with this section, apply *mutatis mutandis* to leagues incorporated under this section. R.S.O. 1960, c. 79, s. 53 (2, 3), *amended*.

Evidence of  
incorpora-  
tion of  
league

(4) The production of a copy of *The Ontario Gazette* containing the notice of incorporation of the league is conclusive evidence that the league is duly incorporated.

By-laws of  
league

(5) Any league incorporated under this section may pass such by-laws as it considers advisable, but no by-law becomes operative until approved by the supervisor. R.S.O. 1960, c. 79, s. 53 (4, 5).

Assessment  
of members  
for league

(6) A credit union that is a member of a league may by by-law provide for a yearly assessment of each of its members of an amount fixed by the by-law, which amount shall be paid to the league to assist in its financing. 1968-69, c. 21, s. 4.

Examination  
of credit  
union by  
league

(7) Any competent person authorized by a league incorporated under this section may examine into the affairs of any credit union that is a member of the league and for such purpose he shall be given access to all books, records and other documents of the credit union and he may make whatever inquiries are necessary to ascertain its true condition and its ability to provide for the payment of its liabilities as they become due, and the officers and employees of the credit union shall facilitate him in his examination and inquiry.

Report to  
supervisor

(8) Where, as a result of an examination under subsection 7, it appears that the assets of the credit union are shown in the statement mentioned in section 51 or in its records at an amount

greater than their true value or that its records are inadequate to show its true financial position, or that it is being managed improperly, the league shall immediately report such information to the supervisor, and the league shall upon the request of the supervisor furnish him with such information as he requires regarding or resulting from the examination. R.S.O. 1960, c. 79, s. 53 (7, 8).

**56.**—(1) A credit union may be an instrument in writing Dissolution signed by two-thirds of its members, or by a resolution passed by two-thirds of its members, or by a resolution passed by two-thirds of its members present at a general meeting called for that purpose, authorize its dissolution. R.S.O. 1960, c. 79, s. 54 (1).

(2) The instrument or resolution shall also set forth the Contents of instrument or resolution liabilities and assets of the credit union, the number of its members and the nature of their respective interests in the credit union, the claims of creditors, if any, and the provision to be made for their payment, and the intended appropriation or division of the property of the credit union unless the appropriation or division is by the instrument or resolution to be left to the award of the Director. R.S.O. 1960, c. 79, s. 54 (2); 1964, c. 14, s. 13 (1).

(3) The credit union shall send a copy of the instrument or resolution to the Director and shall give notice of the instrument or resolution in *The Ontario Gazette* and in a newspaper having a general circulation in the locality in which the registered office of the credit union is situated. Notice of instrument or resolution R.S.O. 1960, c. 79, s. 54 (3); 1964, c. 14, s. 13 (2).

(4) Where the credit union has no liabilities and has appropriated or divided its property pursuant to the instrument or resolution, the Minister may by order declare the credit union to be dissolved on such date as the order fixes. Order of dissolution R.S.O. 1960, c. 79, s. 54 (4), *amended*.

(5) The Minister shall cause notice of the dissolution of the corporation to be given in *The Ontario Gazette* and shall advise the Director thereof. Notice of dissolution R.S.O. 1960, c. 79, s. 54 (5); 1964, c. 14, s. 13 (3), *amended*.

**57.**—(1) The Minister may by order dissolve a credit union, if Dissolution by Minister he is satisfied that,

- (a) its incorporation was obtained by fraud or mistake;
- (b) it exists for an illegal purpose;
- (c) the number of its members is reduced to less than twenty;
- (d) it is not carrying on business or is not in operation; or
- (e) it has, after notice by the supervisor, contravened any of the provisions of this Act. R.S.O. 1960, c. 79, s. 55 (1); 1960-61, c. 16, s. 9, *amended*.

Notice by  
Minister

(2) The Minister shall give the credit union not less than two months notice of the proposed dissolution, specifying the reasons therefor and stating that unless cause is shown to the contrary within such period it will be dissolved.

Order of  
dissolution

(3) At the expiration of the time mentioned in the notice, the Minister may, unless cause to the contrary is previously shown by the credit union, by order declare the credit union to be dissolved on such date as the order fixes. R.S.O. 1960, c. 79, s. 55 (2, 3), *amended*.

Notice of  
dissolution

(4) The Minister shall cause notice of the dissolution of the corporation to be given in *The Ontario Gazette* and shall advise the Director thereof. R.S.O. 1960, c. 79, s. 55 (4); 1964, c. 14, s. 14, *amended*.

Amalgama-  
tion of  
credit  
unions

**58.**—(1) Any two or more credit unions to which this Act applies may amalgamate and continue as one credit union.

Joint  
agreement  
between  
credit unions  
proposing  
to amalga-  
mate, etc.

(2) The credit unions proposing to amalgamate may enter into an agreement for the amalgamation prescribing the terms and conditions of the amalgamation, the mode of carrying the amalgamation into effect, and stating the name of the amalgamated credit union, the names, callings and places of residence of the first directors thereof and how and when the subsequent directors are to be elected with such other details as are necessary to perfect the amalgamation and to provide for the subsequent management and working of the amalgamated credit union, and the par value of each share, and the manner of converting the share capital of each of the amalgamating credit unions into that of the amalgamated credit union.

Submission  
to members  
of credit  
unions

(3) The agreement shall be submitted to the members of each of the amalgamating credit unions at general meetings thereof called for the purpose of considering the agreement, and, if two-thirds of the votes cast at each such meeting are in favour of the adoption of the agreement, that fact shall be certified upon the agreement by the secretary of each of the amalgamating credit unions under the corporate seal thereof. R.S.O. 1960, c. 79, s. 56 (1-3).

Application  
for cer-  
tificate of  
amalgama-  
tion

(4) If the agreement is adopted in accordance with subsection 3, the amalgamating credit unions may apply jointly to the Minister for a certificate of amalgamation.

Certificate  
of amal-  
gamation

(5) The Minister may, in his discretion, issue a certificate of amalgamation, and on and after the date of the certificate such amalgamating credit unions are amalgamated and are continued as one credit union under the name set forth in the certificate, and the amalgamated credit union possesses all the property, rights, privileges and franchises and is subject to all the liabilities,

contracts, disabilities and debts of each of the amalgamating credit unions. R.S.O. 1960, c. 79, s. 56 (4, 5), *amended*.

(6) The Minister shall cause notice of the issue of the certificate of amalgamation to be given in *The Ontario Gazette* and to the Director. R.S.O. 1960, c. 79, s. 56 (6); 1964, c. 14, s. 15, *amended*. Notice

**59.**—(1) A credit union may sell all or any part of its assets to another credit union or it may purchase all or any part of the assets of another credit union in accordance with this section. Sale and purchase of assets

(2) The purchasing credit union may assume, as part of the purchase price, any or all of the liabilities of the selling credit union and may pay the balance in cash or by the issue of shares to the selling credit union or the members thereof whether or not such members are members of the purchasing credit union. R.S.O. 1960, c. 79, s. 57 (1, 2). Purchase price

(3) The selling credit union shall enter into an agreement with the purchasing credit union containing the terms and conditions of the sale, and the selling credit union shall within one month after the agreement is signed file a copy thereof with the Director for his approval. R.S.O. 1960, c. 79, s. 57 (3); 1964, c. 14, s. 16 (1). Agreement

(4) If and when the agreement is approved by the Director, each of the credit unions shall submit it to a meeting of its shareholders of which due notice has been given to all shareholders stating the purpose for which the meetings are called. R.S.O. 1960, c. 79, s. 57 (4); 1964, c. 14, s. 16 (2). Submission of agreement to shareholders

(5) If the agreement is approved by the shareholders of each of the credit unions by at least a three-fourths vote of the shareholders present at each meeting, the secretary of each credit union shall certify on the agreement that it has been so approved and shall forward a copy of the agreement so certified to the Director. R.S.O. 1960, c. 79, s. 57 (5); 1964, c. 14, s. 16 (3). Approval by shareholders

(6) Upon the approval of the shareholders of each of the credit unions, the agreement is binding on each of the credit unions and the sale shall thereafter be completed as of the effective date specified in the agreement, which shall be a date subsequent to the approval by the shareholders of each of the credit unions. R.S.O. 1960, c. 79, s. 57 (6). Effect of approval

(7) In the event the agreement does not specify an effective date, the Director may fix a date upon which it will become effective. R.S.O. 1960, c. 79, s. 57 (7); 1964, c. 14, s. 16 (4). Effective date

(8) If the selling credit union has disposed of all its assets under the agreement, it shall cease to carry on business on the effective date of the agreement, except for the purpose of winding up its affairs, and it shall dissolve as soon as possible thereafter. R.S.O. 1960, c. 79, s. 57 (8). Where all assets disposed of



Notice of  
winding-up  
proceedings  
R.S.C. 1952,  
c. 296

**60.** Where proceedings are taken under the *Winding-up Act* (Canada) in respect of a credit union, the secretary shall send notice thereof to the supervisor by registered mail. R.S.O. 1960, c. 79, s. 58; 1960-61, c. 16, s. 10.

Offences:  
of credit  
unions

**61.**—(1) Every credit union that fails to comply with any of the provisions of this Act or the regulations or that makes any return or furnishes any information required to be made or furnished under this Act or the regulations containing any false statement is guilty of an offence.

of officers  
and others

(2) Every offence by a credit union under this Act shall be deemed to have been also committed by every officer of the credit union who is bound by its by-laws to fulfill the duty whereof such offence is a breach, or, if there is no such officer, then by every member of the board of directors unless such member is found to have been ignorant of, or to have attempted to prevent the commission of, such offence, and every act or default under this Act constituting an offence, if continued, constitutes a new offence in every week during which it continues.

Penalty

(3) Any credit union or other person guilty of an offence under this Act is liable on summary conviction to a fine of not less than \$20 and not more than \$200 for every such offence. R.S.O. 1960, c. 79, s. 59.

Failure to  
file annual  
statement

(4) Notwithstanding subsections 2 and 3, any credit union that is in default of filing the annual statement required by section 51 is liable on summary conviction to a fine of not more than \$5 for each day such default continues. 1968-69, c. 21, s. 5.

Regulations

**62.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing the procedure and forms to be used under this Act;
- (b) providing and prescribing the fees payable for incorporation of credit unions and credit union leagues, for amalgamation of credit unions, for changing the name of credit unions, for filing any memorandum of association, return or other document required or permitted to be filed under this Act, for searches, and for certified copies of certificates of incorporation and other documents;
- (c) respecting the holding of first meetings, the notice calling the meeting, the quorum, and the business to be transacted;
- (d) governing credit unions and leagues of credit unions;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 79, s. 60.

**63.**—(1) This Act, except in so far as it is otherwise expressly declared, applies to, Application of Act

- (a) co-operative credit societies incorporated under *The Co-operative Credit Societies Act*, being chapter 64 of the Statutes of Ontario, 1922;
- (b) co-operative credit societies and credit unions incorporated under *The Co-operative Credit Societies Act*, being chapter 258 of the Revised Statutes of Ontario, 1937; or
- (c) credit unions and credit union leagues incorporated under this Act or any predecessor thereof. R.S.O. 1960, c. 79, s. 61 (1), *amended*.

(2) Every co-operative credit society incorporated under *The Co-operative Credit Societies Act*, being chapter 64 of the Statutes of Ontario, 1922, or *The Co-operative Credit Societies Act*, being chapter 258 of the Revised Statutes of Ontario, 1937, shall for the purposes of this Act be deemed a credit union. R.S.O. 1960, c. 79, s. 61 (2). Certain societies deemed credit unions

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## CHAPTER 97

### The Creditors' Relief Act

#### 1. In this Act,

Interpre-  
tation

- (a) "county" includes a provisional judicial district;
- (b) "county court" includes a district court;
- (c) "execution" includes a writ of *fiery facias* and every subsequent writ for giving effect thereto;
- (d) "judge" means a judge of the county court of the county the sheriff of which is required to take the proceedings directed by this Act;
- (e) "sheriff" includes any officer to whom an execution is directed. R.S.O. 1960, c. 78, s. 1.

**2.** Where a judge is disqualified to act in a matter arising under this Act, a judge of the county court of an adjoining county has jurisdiction to act in his place. R.S.O. 1960, c. 78, s. 2.

Where  
judge is  
disqualified

**3.** Subject to this Act, there is no priority among creditors by execution from the Supreme Court or from a county court. R.S.O. 1960, c. 78, s. 3.

No priority  
among  
execution  
creditors

**4.—(1)** A creditor who attaches a debt shall be deemed to do so for the benefit of all creditors of his debtor as well as for himself.

Attachment  
to be for  
benefit of  
all creditors

(2) Payment of such debt shall be made to the sheriff of the county in which the garnishee resides, or, if there are more garnishees than one in respect of the same debt, then to the sheriff of the county in which any one of them resides.

To whom  
to be paid

(3) This section does not apply to debts attached by proceedings in a small claims court unless before the amount recovered by the garnishment proceedings is actually received by the creditor an execution against the property of the debtor is placed in the hands of the sheriff of such county.

Attachments  
in small claims  
courts

(4) Where money is paid to a sheriff in whose hands there is no execution against the property of the debtor and there is in the hands of the sheriff of another county an execution against the property of the debtor, the court or a judge on the application of the last-mentioned sheriff or of a creditor or of the debtor may direct, on such terms as to costs and otherwise as seem just, that

Money  
paid to  
sheriff who  
has no  
execution  
in hand



such money be paid over to the last-mentioned sheriff to be distributed by him as if such money had then been paid to him by the garnishee, and the court or judge shall fix the compensation to be paid to the sheriff by whom the money was received from the garnishee for his services.

Money paid  
into  
small claims  
court

(5) Where money that a sheriff is entitled to receive under this section is paid into a small claims court, the sheriff is entitled to demand and receive it from the clerk of the court for the purpose of distributing it under this Act.

Right of  
attaching  
creditor to  
share with  
other  
creditors

(6) An attaching creditor is entitled to share in respect of his claim against the debtor in any distribution made under this Act, but his share shall not exceed the amount recovered by his garnishment proceedings unless he has in due time placed an execution or a certificate given under this Act in the sheriff's hands.

Sheriff's  
poundage

(7) The sheriff is entitled to poundage upon money received and distributed by him under this section at the rate of  $1\frac{1}{4}$  per cent and no more.

Sheriff's  
right to  
recover  
attached  
debt

(8) If an attached debt that the sheriff is entitled to receive or any part of it is received by the attaching creditor, the sheriff may recover it from him; but a clerk of a small claims court is not liable for making payment to the creditor unless at the time of payment he has notice that there is an execution against the property of the debtor in the sheriff's hands. R.S.O. 1960, c. 78, s. 4, *amended*.

Entries by  
sheriff after  
levy  
R.S.O. 1970,  
c. 2

**5.—**(1) Where a sheriff levies money under an execution against the property of a debtor or receives money in respect of a debt that has been attached or sold under section 15 of *The Absconding Debtors Act*, he shall forthwith make an entry in Form 1 in a book to be kept in his office, and such book shall be open to the public for inspection without charge.

Distribution

(2) The money shall thereafter be distributed rateably among all execution creditors and other creditors whose executions or certificates given under this Act were in the sheriff's hands at the time of the levy or receipt of the money or who deliver their executions or certificates to the sheriff within one month from the entry, subject to the provisions hereinafter contained as to the retention of dividends in the case of contested claims, and to the payment of the costs of the creditor under whose execution the amount was made, and subject also to subsection 6 of section 4, and, as respects money recovered by garnishment proceedings, subject to the payment thereof to the creditor who obtained the attaching order of his costs of such proceedings.

(3) Subsection 2 does not apply to money received by a sheriff as the proceeds of a sale of property by him under an interpleader order; but upon the determination of the interpleader proceeding in favour of the creditors the money, whether in the sheriff's hands or in court pending such determination, shall, subject to subsection 4, be distributed by the sheriff among the creditors contesting the adverse claim.

Money realized on sale under interpleader order

(4) Where proceedings are taken by a sheriff for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute *pro rata* in proportion to the amount of their executions or certificates to the expense of contesting any adverse claim are entitled to share in any benefit that may be derived from the contestation of such claim so far as is necessary to satisfy their executions or certificates.

Rights of creditors in case of interpleader proceedings

(5) The judge making the interpleader order may direct that one creditor has the carriage of the interpleader proceedings on behalf of all creditors interested, and the costs thereof, as between solicitor and client, are a first charge upon the money or goods that may be found by the proceedings to be applicable upon the executions or certificates.

Order as to carriage of proceedings

(6) Upon an interpleader application the judge may allow to other creditors who desire to take part in the contest a reasonable time in which to place their executions or certificates in the sheriff's hands upon such terms as to costs and otherwise as are considered just.

Time allowed

(7) Where the sheriff, subsequent to the entry but within the month, levies a further amount from the property of a debtor or receives money in respect of a debt that has been attached or sold, it shall be dealt with as if it had been levied or received before the entry.

Application of subsequent levy

(8) If, after the month, a further amount is so levied or received, a new notice shall be entered and the distribution to be made of the amount so levied or received and of any further amount levied or received within a month of the entry of the last-mentioned entry shall be governed by the entry thereof in accordance with the foregoing provisions of this section, and so from time to time as further amounts are so levied or received.

Notice and distribution on further levy

(9) Where a creditor has shared in a previous distribution, he is entitled to share in a subsequent one only in respect of the amount remaining due to him after crediting what he has received in a previous distribution.

Share in subsequent distribution

(10) In distributing money under this section creditors who have executions against goods or lands only or against goods and

Equality of all executions

lands are entitled to share rateably with all others and money realized under execution against either goods or lands or against both, or under an attaching order.

Which  
creditors  
may share

(11) Subject to subsection 6 of section 4, a creditor is not entitled to share in the distribution unless by the delivery of an execution or otherwise under this Act he has established a claim against the debtor either alone or jointly with some other person.

Money  
realized  
under

R.S.O. 1970,  
c. 2

(12) Where money in the hands of the sheriff for distribution is the proceeds of the property of an absconding debtor against whom an order of attachment has been issued under *The Absconding Debtors Act*, the period mentioned in subsection 2 is two months, and subsection 8 shall be read as if the words "the month" in the first line were "the two months". R.S.O. 1960, c. 78, s. 5.

Proceedings  
where debtor  
allows  
execution  
to remain  
unsatisfied

**6.**—(1) If a debtor permits an execution issued against him under which any of his goods or chattels are seized by a sheriff to remain unsatisfied in the sheriff's hands until within two days of the time fixed by the sheriff for the sale thereof, or for twenty days after the seizure, or allows an execution against his lands to remain unsatisfied for nine months after it has been placed in the sheriff's hands, the proceedings hereinafter authorized may be taken by other creditors or claimants in respect of debts that are overdue.

When sale  
occurs

(2) When a sale has taken place under an execution, the proceedings hereinafter authorized may be taken by any creditor of the execution debtor even though his claim is not then due. R.S.O. 1960, c. 78, s. 6.

Affidavit of  
creditor

**7.**—(1) An affidavit in Form 2 of the debt and the particulars thereof may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts.

Filing  
affidavit or  
certificate

(2) Before or simultaneously with the filing with the clerk of the county court of the affidavit, there shall be filed with him a certificate of the sheriff, or an affidavit, showing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Act.

Service on  
debtor

(3) The claimant shall serve on the debtor one of the duplicates and a notice in Form 3.

Service out  
of Ontario

(4) Where the affidavit and notice are to be served out of Ontario, the judge shall by order fix the time after which the next step may be taken by the claimant as hereinafter provided. R.S.O. 1960, c. 78, s. 7.

**8.—**(1) An execution debtor may give notice in writing to the sheriff that any claims to be served upon him may be served upon a solicitor in Ontario, whose name and address shall be given, or by mailing the claims to an address stated in the notice.

Notice by  
debtor of  
address for  
service

(2) The sheriff shall thereupon enter the notice in the book mentioned in subsection 1 of section 5, and, so long as any execution that was in the sheriff's hands at the time the notice was given remains in his hands, shall repeat such entry immediately below any entry in Form 1 made in respect of the execution, unless the notice is revoked in writing, in which case the entry thereof shall be marked "revoked".

Entry of  
notice

(3) So long as the notice is not revoked, the affidavit of claim and notice in Form 3 may, where a solicitor is named, be served upon an execution debtor by serving it upon the solicitor, or, if mailing is required, then by sending it by registered mail to the address in the notice given by the execution debtor.

Service at  
address

(4) Where the notice in Form 3 served on a debtor does not state some place in or within three miles of the county town of the county in which the proceedings are being taken at which service may be made upon the claimant, or does not give the name and address of some solicitor in Ontario who may be served on the claimant's behalf, service of any notice, paper or document may be made upon the claimant by sending it by registered mail addressed to the claimant at the county town.

Service by  
mail

(5) The claimant shall file with the clerk of the county court of the county, the sheriff of which has the execution, one of the duplicate affidavits of claim and a copy of the notice with an affidavit of service thereof in Form 4.

Filing  
affidavit

(6) The affidavit and the notice shall, where practicable, be personally served upon the debtor; but, if it is made to appear to the judge that the claimant is unable to effect prompt personal service, the judge may order substitutional or other service, or may direct some act to be done that shall be deemed sufficient service. R.S.O. 1960, c. 78, s. 8.

Service  
generally

**9.—**(1) Where the claim is not contested in the manner hereinafter mentioned, after ten days from the day of service, or after the time mentioned in the order provided for by subsection 4 of section 7, as the case may be, on the application of the claimant and his filing proof of due service of the affidavit and notice, or, where the claim is contested, upon the determination of a dispute in favour of the claimant, either in whole or in part, the clerk of the county court shall deliver to the creditor a certificate in Form 5 and, where the claim is disputed as to a part only, the claimant may elect, by a writing filed with the clerk, to abandon such part and is entitled to a certificate as to the residue.

Certificate  
where claim  
not disputed



Delivery to  
sheriff and  
effect of  
certificate

(2) Upon delivery of the certificate to the sheriff the claimant shall be deemed to be an execution creditor within the meaning of this Act, and is entitled to share in any distribution as if he had delivered an execution to the sheriff, and the certificate binds the lands and goods of the debtor in the same manner as an execution, subject, however, to the debt being afterwards disputed by a creditor as hereinafter provided.

In case of  
interpleader

(3) For the purpose of interpleader proceedings the certificate shall be deemed to be an execution.

Address for  
service to be  
endorsed

(4) If the certificate is obtained by a solicitor, his name and address shall be endorsed thereon, and, if obtained by the claimant in person, there shall be endorsed thereon a statement of some place in or within three miles of the county town of the county in which the proceedings are being taken at which service may be made upon him, and, in default thereof, service of any notice, paper or document may be made upon the claimant by sending it by registered mail addressed to him at the county town.

Further  
levy

(5) On receiving the certificate the sheriff shall make a further seizure of the property of the debtor to the amount of the debt so claimed and the sheriff's fees, and so from time to time in case further certificates are received.

Time of  
remaining  
in force

(6) A certificate remains in force for three years from the date thereof, but may from time to time be renewed in the same manner as an execution.

Execution or  
certificate  
expiring  
within  
month  
of levy

(7) Notwithstanding the expiry of an execution or certificate before the termination of the month during which a notice of money having been levied or received is required to be entered, the execution or certificate, as to any money levied or received during such month, shall be deemed to be in full force and effect. R.S.O. 1960, c. 78, s. 9.

Contesting  
claim

**10.**—(1) The claim may be contested by the debtor or by a creditor of the debtor.

Affidavit of  
debtor

(2) Where the debtor contests the claim, he shall file with the clerk an affidavit stating that he has a good defence to the claim or to a specified part of it on the merits, but the judge may dispense with the affidavit on terms or otherwise.

Filing and  
serving  
affidavit

(3) The debtor shall file the affidavit and serve upon the claimant a copy thereof within ten days after service upon him of the affidavit of claim and the notice, or within the time mentioned in the order provided for by subsection 4 of section 7, as the case may be, or within such further time as the judge may allow.

(4) Where the contestation is by a creditor, he shall file with the clerk an affidavit to the effect that he has reason to believe that the debt claimed is not really and in good faith due from the debtor to the claimant, but the judge may dispense with the affidavit on terms or otherwise.

Contestation  
by creditor

(5) Notice of contestation, whether by the debtor or by a creditor, together with a copy of the affidavit, if any, shall be served upon the claimant within five days after filing the affidavit or after the order of the judge, if the affidavit is dispensed with.

Notice of  
contestation

(6) The affidavit by a creditor may be filed and a certificate thereof delivered to the sheriff at any time before distribution is made, and the sheriff shall forthwith give notice of the receipt of such certificate to the claimant.

Certificate of  
contestation

(7) The affidavit of the debtor or other contestant shall have endorsed thereon a statement of some place in or within three miles of the county town of the county in which the proceedings are being taken at which service may be made upon him, or the address of a solicitor in Ontario who may be served on his behalf, and, in default thereof, service of any notice, paper or document may be made upon the debtor or contestant by sending it by registered mail addressed to him at the county town. R.S.O. 1960, c. 78, s. 10.

Address for  
service

**11.** Where the address of a solicitor is given for service that is not within three miles of the county town where the proceedings are carried on, service may be made upon him by serving his agent in Toronto. R.S.O. 1960, c. 78, s. 11.

Service on  
Toronto  
agent

**12.—(1)** Where a claim is contested by a creditor after a certificate has been placed in the sheriff's hands, the sheriff, unless the judge otherwise orders, shall levy as if the contestation had not been made, and shall, until the determination of the contestation, retain in the bank the amount that would be apportionable to the claim if valid, and shall, as soon after the expiry of the month as is practicable, distribute the residue of the money made among those entitled thereto.

Distribution  
in case of  
contestation

(2) The claimant whose claim is contested may apply to the judge for an order allowing his claim and determining the amount, and, if he does not make such application within eight days after receiving notice of the contestation or within such further time, if any, as the judge allows, he shall be taken to have abandoned his claim.

Application  
for allow-  
ance of  
claim

(3) Where the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith, any other creditor may apply for an order permitting him to intervene in the contestation. R.S.O. 1960, c. 78, s. 12.

When  
contest is  
not in good  
faith

Trial of  
contestation

**13.**—(1) The judge may determine any question in dispute in a summary manner or may direct an action to be brought or an issue to be tried with or without a jury in any court and in any county for the determination thereof, and may make such order as to the costs of the proceedings as he considers just.

Where  
sum in  
controversy  
exceeds \$400

(2) Where the sum in controversy appears to be over \$400 exclusive of costs, the judge shall direct that the action be brought or the issue tried in the Supreme Court, and, subject to any order that that court or a judge thereof may make in that behalf, shall name the county in which the trial is to take place.

Proceedings  
where issue  
directed

(3) Where an issue is directed, the trial shall take place and all proceedings subsequent thereto shall be the same as if it had been an action in the court in which it is ordered to be tried. R.S.O. 1960, c. 78, s. 13.

Production,  
examination,  
etc.

**14.** The same proceedings may be had for the production of documents and for the examination of parties or others, either before or at the trial, as may be taken in an ordinary action, and such proceedings may also be taken before the application to the judge, and as a foundation therefor. R.S.O. 1960, c. 78, s. 14.

Clerk to  
keep book  
of record

**15.**—(1) The clerk of the county court shall keep a book in which, before giving a certificate or issuing an execution for a claim, he shall enter the following particulars with reference to every claim in respect of which he gives a certificate or issues an execution:

1. The names of the claimant and the debtor.
2. The date of the entry.
3. The amount of the debt, exclusive of costs.
4. The amount of costs.
5. If the proceedings have been set aside, that fact, and shortly the reason therefor.

Effect of  
entry

(2) The entry has, subject to this Act, the effect of and is a final judgment of the court for the debt and costs.

Index

(3) The clerk shall index the entries in a book, alphabetically under the names of the debtors.

Copy of  
entry as  
evidence

(4) Where the original papers are lost or destroyed, a copy of the entry is evidence of the matters therein set forth. R.S.O. 1960, c. 78, s. 15.

Small claims  
court  
judgment  
creditors

**16.** A creditor who has recovered a judgment in a small claims court against the debtor may deliver to the sheriff a certificate, under the hand of the clerk and the seal of the small claims court, of the amount of his judgment and of the costs to which he is

entitled, and the certificate so delivered shall have the same effect, for the purposes of this Act, as if the creditor had delivered to the sheriff an execution from a county court. R.S.O. 1960, c. 78, s. 16, *amended*.

**17.** Where a creditor has taken in one county the prescribed proceedings in respect of his claim and desires to establish his claim for the purposes of this Act in another county, he may do so by obtaining from the clerk of the county court of the county first mentioned another certificate in Form 5, and delivering it to the sheriff of such other county, and the delivery of the certificate to the sheriff has the same effect in such other county from the time of the delivery thereof as if the certificate had been issued by the clerk of the county court of such other county upon the proceedings therein. R.S.O. 1960, c. 78, s. 17.

Establishing claim in another county

**18.** A creditor entitled to obtain a certificate from the clerk of a county court may also sue out an execution into any county in the same manner as on an ordinary judgment; but this does not prejudice the right of any other creditor to contest the claim of the first-mentioned creditor under this Act. R.S.O. 1960, c. 78, s. 18.

Executions may issue to any county

**19.—(1)** Where a claim is contested in one county, the decision thereon shall, as between the parties to the contestation, determine the amount of the claim for the purposes of this Act and in all other counties in which the claim is filed, and the certificate of the clerk of the county court of the county in which the contestation has taken place as to the result thereof is sufficient evidence of the decision.

Effect of decision after contestation

(2) Upon payment of a fee of 50 cents the certificate shall be granted to any party to the proceedings who applies therefor. R.S.O. 1960, c. 78, s. 19.

Fee for certificate of result

**20.—(1)** Where the debtor, without a sale by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, and no other claim has been filed, or where all executions and certificates in the sheriff's hands are withdrawn and any claims filed are paid or withdrawn, notice shall not be entered under section 5 and no further proceedings shall be taken under section 6.

Effect of payment or withdrawal of all executions and certificates

(2) Save as aforesaid, after a certificate has been delivered to the sheriff, the withdrawal or expiry of the execution upon which the proceedings are founded, or any stay of the same, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the execution, does not affect the proceedings that may be taken under this Act, and, except so far as the action taken with respect to the execution may affect the amount to be levied, the sheriff shall levy upon the property of the debtor as he would

Where all not satisfied



have done had the execution remained in his hands in full force for execution, and he may also take the like proceedings as he would have been entitled to take had the execution been a writ of *venditioni exponas*.

Effect of  
part pay-  
ment where  
one debt

(3) Where a debtor, without a sale by the sheriff, pays to him part of the amount owing in respect of an execution or certificate in his hands, and there is at the time no other execution or certificate in his hands, the sheriff shall apply the money so paid on the execution or certificate, and section 5 does not apply to the money so paid. R.S.O. 1960, c. 78, s. 20.

Priority of  
costs under  
R.S.O. 1970,  
c. 2

**21.**—(1) Where proceedings have been taken against a debtor under *The Absconding Debtors Act* and his property has been attached under an order of attachment before an execution has been placed in the hands of the sheriff and the money levied is the proceeds of such property or a part thereof, the cost of the order of attachment, or, if there are more than one, the one first placed in the sheriff's hands and the proceedings thereon have priority over the claim of all other creditors.

Attaching  
creditor and  
execution  
creditor

(2) Where an attaching creditor is entitled to priority under subsection 1, the priority provided for by subsection 2 of section 5 shall not be given to the execution creditor. R.S.O. 1960, c. 78, s. 21.

Costs of  
claimant

**22.**—(1) The clerk of the county court shall ascertain and state in his certificate the amount of the costs to which the claimant is entitled as against the debtor.

Scale of  
costs

(2) Such costs shall be the following:

1. For serving the affidavit of claim and notice, in the case of claims over \$400, on the scale of the Supreme Court, and in the case of claims exceeding \$200 and not exceeding \$400, on the county court scale, and in the case of claims of \$200 and under, on the small claims court scale; but, if the claim does not exceed \$200, no greater fees are to be allowed than would be allowed to a small claims court bailiff for the service of a small claims court summons and mileage if the claim had been sued in the proper small claims court.
2. The fees paid to the clerk of the county court, on the scale for like proceedings in the county court, unless the claim does not exceed \$200, in which case his fees are those allowable for like proceedings in the small claims court.
3. Where there is no contest, \$5 for fees of a solicitor, if one is employed, unless the amount of the claim does not exceed \$200, in which case the sum of \$2 shall be allowed.

4. Where there is a contest, such additional costs as the judge may allow, to be taxed on the scale of the Supreme Court, county court, or small claims court, according as the amount in dispute is within the jurisdiction of one or other of such courts.
5. The costs of obtaining an order for substitutional service or other similar order and of such service, and of or incidental to service out of Ontario, if the claim is within the jurisdiction of the small claims court, only such costs as would have been allowed in the small claims court. R.S.O. 1960, c. 78, s. 22, *amended*.

**23.** Where there is in a court a fund belonging to an execution debtor or to which he is entitled, it or a sufficient part thereof to meet the executions and certificates in the sheriff's hands may, on the application of the sheriff or any person interested, be paid over to the sheriff, and it shall be deemed to be money levied under execution within the meaning of this Act. R.S.O. 1960, c. 78, s. 23.

Payment to  
sheriff of  
fund in  
court

**24.** Where a judgment creditor obtains the appointment of a receiver by way of equitable execution of property of his debtor, the receiver shall pay into court the money received by him by virtue of his receivership, and it is subject to section 23, but the creditor is entitled to be paid thereout the costs of and incidental to the receivership order and the proceedings thereon in priority to the claims of all other creditors. R.S.O. 1960, c. 78, s. 24.

Money  
made by  
receiver

**25.—(1)** If the sheriff does not find property of a debtor leviable under the executions and certificates in his hands sufficient to pay the same in full, but finds property or the proceeds thereof in the hands of the bailiff of a small claims court under an execution or attachment against the debtor, the sheriff shall demand and obtain them from the bailiff, who shall forthwith deliver them to the sheriff with a copy of every execution and attachment in his hands against the debtor and a memorandum showing the amount to be levied under the execution, including the bailiff's fees, and the date upon which each execution or attachment was received by him.

Goods in  
hands of  
small claims  
court  
bailiff

(2) If the bailiff fails to deliver any of such property or the proceeds thereof, he shall pay double the value of that which is retained, which may be recovered by the sheriff from him with costs of suit, and shall be accounted for by the sheriff as part of the estate of the debtor.

Penalty for  
default

(3) The costs and disbursements of the bailiff are a first charge upon such property or the proceeds thereof and shall be paid by

Costs

the sheriff to the bailiff upon demand after being taxed by the small claims court clerk.

Distribution  
of proceeds

(4) The sheriff shall distribute the proceeds among the creditors entitled to share in the distribution, and the small claims court execution creditors are entitled without further proof to stand in the same position as creditors whose executions are in the sheriff's hands. R.S.O. 1960, c. 78, s. 25, *amended*.

Apportion-  
ment

**26.** Where the amount levied by the sheriff is not sufficient to pay the executions and certificates with costs in full, the money shall be applied to the payment rateably of such debts and costs of the creditors, after retaining the sheriff's fees including poundage, and after payment in full of the taxed costs and the costs of the execution to the creditor at whose instance and under whose execution the seizure and levy were made where he is entitled to priority therefor under this Act. R.S.O. 1960, c. 78, s. 26.

Levy of  
interest and  
costs of  
renewals

**27.** The sheriff, if directed by an endorsement upon a certificate, shall, in addition to the amounts named therein, levy interest on such amounts from the date of the certificate, or from the date named in that behalf in the certificate, and also \$1.35 for the disbursements on every renewal of the certificate, and, where such renewal is made upon the application of a solicitor, he shall also levy \$1.25 for the solicitor's costs on the renewal. R.S.O. 1960, c. 78, s. 27.

Sheriff's  
poundage

**28.** Where money is to be distributed by the sheriff under this Act, he is not entitled to poundage as upon separate executions or certificates, but only upon the net proceeds distributable by him at the same rate as if the whole amount had been payable upon one execution. R.S.O. 1960, c. 78, s. 28.

Application  
of money  
made under  
execution

**29.—**(1) Where money is made under an execution, it shall be taken to have been made under all the executions and certificates entitled to the benefit thereof, and, upon payment being made to the person entitled under any such execution or certificate, the sheriff shall endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party who issued the execution, or by direction of the court out of which the same issued, or of a judge thereof, return the execution until it has been fully satisfied or has expired, in which latter case the sheriff shall make a formal return of the amount made thereunder.

Compelling  
payment  
by sheriff

(2) The like proceedings may be taken to compel payment by the sheriff of money payable in respect to a certificate as can now be had to compel the return by the sheriff of an execution. R.S.O. 1960, c. 78, s. 29.

**30.** Pending the distribution, the sheriff shall keep, in the book mentioned in section 5, a statement in Form 6 showing,

Statement to be kept in sheriff's office, pending distribution

- (a) the amounts levied or received and the dates of levy or receipt;
- (b) each execution, certificate or order in his hands at the time of making the entry in Form 1, or subsequently received during the month, the amount thereof, for debt and costs, and the date of receipt, and such statement shall be amended from time to time as additional amounts are levied or received or further executions, certificates or orders are received. R.S.O. 1960, c. 78, s. 30.

**31.** The sheriff shall at all times without fee answer any reasonable question that he is asked orally respecting the property of the debtor by a creditor or any one acting on the creditor's behalf, and shall facilitate the obtaining by him of full information respecting the property and the probable dividend to be realized therefrom in his county, or any other information in connection with the property that the creditor may reasonably desire to obtain. R.S.O. 1960, c. 78, s. 31.

Sheriff to give information as to estate of debtor

**32.**—(1) Where at the time for distribution the money is insufficient to pay all claims in full, the sheriff shall first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution, with the amount due to each for principal, interest and costs.

Distribution by sheriff where amount levied insufficient to meet all claims

(2) The list shall be so arranged as to show the amount payable to each creditor and the total amount to be distributed, and the sheriff shall deliver or send by registered mail a copy of the list to each creditor or his solicitor.

Contents of list

(3) If within eight days after all the copies have been delivered or posted, or within such further time as the judge may allow, no objection is made as provided by this Act, the sheriff shall make distribution forthwith pursuant to such list.

Time for distribution

(4) If objection is made, the sheriff shall forthwith distribute rateably so much of the money made, and among such persons, as will not interfere with the effect of the objection in case it should be allowed.

Where objection made

(5) Any person affected by the proposed scheme of distribution may contest it by giving, within the time mentioned in subsection 3, a notice in writing to the sheriff stating his objection to the scheme and the grounds thereof.

Right of contestation

(6) The contestant shall within eight days thereafter apply to the judge for an order adjudicating upon the matter in dispute, otherwise the contestation shall be taken to be abandoned.

Order



Appoint-  
ment

(7) The contestant shall, within the time mentioned in subsection 6, obtain from the judge an appointment for hearing and determining the matter in dispute.

Service

(8) A copy of the appointment and a notice in writing in Form 7 of the objections stating the grounds thereof shall be served by the contestant upon the debtor, unless he is the contestant, and upon the creditors or such of them as the judge may direct.

Determina-  
tion of  
dispute

(9) The judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury in any court and in any county for the determination thereof, and may make such order as to the costs of the proceedings as he considers just, and subsections 2 and 3 of section 13 apply.

Distribution  
of money  
retained

(10) Where a claimant is held to be not entitled or to be entitled to part only of his claim, the money retained pending the contestation or the portion as to which the claimant has failed shall be distributed among the creditors who would have been entitled to it as it would have been distributed had the claim in respect thereof not been made.

Rights of  
subsequent  
execution  
creditors  
where first  
execution  
followed by  
a mortgage

(11) Where a debtor has executed a mortgage or other charge, otherwise valid, upon his property or a part thereof after the receipt of an execution by the sheriff and before distribution, such mortgage or charge shall not prevent the sheriff from selling the property under an execution or certificate placed in his hands before distribution as if such mortgage or charge had not been given, nor prevent creditors whose executions or certificates are subsequent thereto from sharing in the distribution; but, in distributing the money realized from the sale of such property, the sheriff shall deduct and pay to the person entitled thereto the amount of such mortgage or charge from the amount that would otherwise be payable out of the proceeds of such property to such subsequent creditors.

Scheme of  
distribution  
in above  
case

(12) In the case provided for in subsection 11, the sheriff shall prepare a separate scheme of distribution of the proceeds of the encumbered property without reference to the mortgage or charge, and from the dividends payable according to such scheme to subsequent creditors there shall be deducted the amount of the mortgage or charge, and the amount so deducted shall be paid to the encumbrancer. R.S.O. 1960, c. 78, s. 32.

Directions  
by judge to  
avoid un-  
necessary  
parties  
and trials

**33.** Where several creditors are interested in a contestation, either for or against the same, the judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as he considers just, and shall direct by whom and in what proportions any cost incurred in the contestation, or in any proceedings thereunder, shall be paid, and whether any and what costs shall be paid out of the money levied. R.S.O. 1960, c. 78, s. 33.

**34.**—(1) The judge may direct the sheriff to levy for an amount sufficient to cover a claim that is in dispute, or part thereof, or, if it appears to the judge that it is improbable that the debtor has other sufficient property, he may direct the sheriff to retain in his hands during the contestation the share that, if the claim is sustained, will be apportionable to it, or a part thereof.

Direction by judge to sheriff where claim is disputed

(2) An order to levy under this section confers on the sheriff the same authority as he would have under an execution. R.S.O. 1960, c. 78, s. 34.

Authority of sheriff under order

**35.** The decision of a judge of the county court or of the Court of Appeal on an appeal binds the debtor and all his creditors, unless it appears that the decision was obtained by fraud or collusion. R.S.O. 1960, c. 78, s. 35.

Effect of decisions

**36.**—(1) Where money comes into the hands of a sheriff, he shall, whenever it amounts to \$100, deposit it in a chartered bank designated for that purpose by the Lieutenant Governor in Council, or, where there is no such bank, in a chartered bank in which public money of Ontario is then being deposited.

Deposit of money in bank

(2) The deposit shall be made in a special account in the name of the sheriff as "Trustee for the creditors of . . . . . (the debtor)". R.S.O. 1960, c. 78, s. 36.

Special account

**37.** Where there are in the sheriff's hands several executions and certificates and there does not appear to be sufficient property to pay all and his own fees, he may apply for an order attaching any debt owing to the execution debtor by any person resident in the county of the sheriff, whether the debt is owing by such person alone or jointly with another person resident or not resident in the county, and to procure an order and to obtain and enforce payment of the debt the sheriff may take the same proceedings as a creditor, and in such case an execution may be directed to him in the same manner as if the attachment were by a creditor, and the proceeds of the debt attached shall be dealt with and distributed in the same manner as if he had realized the proceeds under execution. R.S.O. 1960, c. 78, s. 37.

Attaching orders by sheriff

**38.** If a party to a contestation or matter upon which a judge has rendered or made a final judgment or order is dissatisfied with the judgment or order and it is in respect to a question involving a sum greater than \$100, he may appeal therefrom to the Court of Appeal as nearly as may be according to the practice in force in respect of appeals from a county court or a judge thereof. R.S.O. 1960, c. 78, s. 38.

Appeal

**39.** For the purpose of giving effect to this Act and carrying out its provisions, a judge has all the powers that a county court or a judge thereof has by law for other purposes, and any proceed-

Powers of judge

ings erroneously taken under this Act may be set aside by the judge, with or without costs as he thinks fit. R.S.O. 1960, c. 78, s. 39.

Evidence on  
proceeding  
before judge

**40.** Upon any proceeding before the judge, the evidence may be taken orally or by affidavit as the judge may direct. R.S.O. 1960, c. 78, s. 40.

Fees  
payable to  
the Crown

**41.** In addition to the fees authorized to be paid to the clerk of the county court for his own use, the following fees are payable to the Crown upon all claims filed, where the amount of the claim exceeds \$200:

On an affidavit of claim where the amount claimed does not exceed \$400. ....	\$ .80
On every such affidavit where the claim exceeds \$400. ....	1.50
On every certificate of the clerk given under section 9, where the claim does not exceed \$400. ....	.80
On every such certificate where the claim exceeds \$400. ....	1.50
On every order made by the judge allowing or disallowing a claim, where the claim does not exceed \$400. ....	.50
On every such order where the claim exceeds \$400. ....	1.00

R.S.O. 1960, c. 78, s. 41.

Application  
of R.S.O.  
1970, c. 228,  
and rules  
of court

**42.** Except where inconsistent with this Act, *The Judicature Act* and the rules of court apply to proceedings under this Act. R.S.O. 1960, c. 78, s. 42.

#### FORM 1

##### *The Creditors' Relief Act*

(Section 5 (1); Section 30 (b) )

##### SHERIFF'S ENTRY

I have on this day in my hands for distribution under *The Creditors' Relief Act* among the creditors of *C.D.* the sum of \$....., and the distribution will be made among the creditors of *C.D.* entitled to share therein at the expiration of one month from this day.

Dated the ..... day of ....., 19.....

F.G.  
Sheriff

R.S.O. 1960, c. 78, Form 1.

FORM 2

*The Creditors' Relief Act*

(Section 7 (1) )

AFFIDAVIT OF CLAIM

In the County Court of the County of

A. B. ...., Claimant

and

C. D. ...., Debtor

I, A. B., of ....., in the County of .....,  
Merchant (or as the case may be), make oath and say:

1. I am the above-named claimant (or the duly authorized agent of the  
claimant) in this behalf, and have a personal knowledge of the matter hereinafter  
deposed to.

2. The above-named debtor is justly and truly indebted to me (or to the  
above-named claimant) in the sum of \$ ....., for  
[here state shortly the nature and particulars of the claim].

Sworn, etc.

A. B.

R.S.O. 1960, c. 78, Form 2.



## FORM 3

*The Creditors' Relief Act*

(Section 7 (3); Section 8 (3, 4) )

## NOTICE TO BE SERVED WITH CLAIM

In the County Court of the County of . . . . .

A. B. . . . ., Claimant

and

C. D. . . . ., Debtor

To the above-named debtor.

Take notice that the claimant intends to file with the clerk of the County Court of the County of . . . . . (or as the case may be) the original affidavit of claim of which a duplicate is served herewith, and that this proceeding is taken by reason of there being in the hands of the sheriff of the said county an execution against your property, and that the claimant intends to call on the sheriff to levy the amount of the said debt from your property under the authority of *The Creditors' Relief Act*.

And further take notice that, if you desire to contest the said claim or any part thereof, you must, within ten (10) days\* after the service of this notice upon you, file with the clerk of the said Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim. If no such affidavit is filed, the claim will be treated as admitted by you. If the affidavit is filed contesting the claim as to part only, such claim may be so treated as to the part not contested.

And further take notice that, unless you endorse upon such affidavit filed by you a statement of some place in, or within three miles of the county town of the said county at which service may be made upon you, or the address of some solicitor in Ontario who may be served on your behalf, service may be made upon you of any notice, paper or document by sending it by registered mail addressed to you at the said county town.

Dated the . . . . . day of . . . . ., 19 . . . . .

A. B.  
Claimant

\*NOTE.—If further time is given by a judge, the notice should be varied accordingly.

R.S.O. 1960, c. 78, Form 3.

FORM 4

*The Creditors' Relief Act*

(Section 8 (5) )

AFFIDAVIT OF SERVICE OF CLAIM

In the County Court of the County of.....

A. B....., Claimant  
and

C. D....., Debtor

I, G. H., of....., in the County of....., make  
oath and say:

1. That I did, on the.....day of....., 19....., personally  
serve C. D., the above-named debtor (*or as the case may be*) with an original  
affidavit, identical with the annexed affidavit, and that there was, at the time of  
such service, attached to (*or endorsed upon*) the said affidavit so served a true  
copy of the notice addressed to the debtor, now attached to (*or endorsed upon*) the  
said annexed affidavit.

Sworn, etc.

G. H.

R.S.O. 1960, c. 78, Form 4.

## FORM 5

*The Creditors' Relief Act*

(Section 9 (1); Section 17)

## CERTIFICATE OF PROOF OF CLAIM

In the County Court of the County of .....

A. B. ...., Claimant  
and

C. D. ...., Debtor

I, ....., Clerk of the County Court of the  
County of ....., do hereby certify:

1. That the above-named claimant did on the ..... day  
of ....., 19 ....., file with me a claim against the  
above-named debtor, for the sum of .....  
together with an affidavit of personal service thereof (*or as the case requires*) and of  
the notice required by *The Creditors' Relief Act*, upon the said debtor, and that it  
thereby appears that such service was made on the ..... day  
of ....., 19 .....

2. That the debtor has not contested the said claim (*or*, has only contested  
the sum of ..... part of the said claim (*as the case  
may be*), and that the claimant having abandoned such part is entitled to the  
residue of his claim, being the sum of ..... and the further  
sum of ..... for costs)

*(Or when the claim is contested in whole or in part, 1.*

That the claim has been allowed by the judge at the sum of \$ .....,  
with \$ ..... for costs.)

G. H.

Clerk

R.S.O. 1960, c. 78, Form 5.

## FORM 6

*The Creditors' Relief Act**(Section 30)*SHERIFF'S STATEMENT OF EXECUTIONS, ETC., IN HIS HANDS AGAINST  
*C. D.*

CAUSE	Proceedings	Claim without Costs	Costs	Date of Receipt by Sheriff	Amount Levied or Received	Date of Levy or Receipt
		\$	\$		\$	
A. B. <i>v</i> C. D. . . .	<i>Fi. fa.</i> goods and lands	504	30	18th Feb., 19 .	500	1st May, 19 .
F. G. <i>v</i> C. D. & E. G. . . . .	<i>Fi. fa.</i> goods and lands	400	20	1st March, 19 .	300	3rd May, 19 . Nothing made against E.G.
K. L. <i>v</i> C. D. . . .	garnishment order	500	30		300	9th May, 19 .
M. N. <i>v</i> C. D. . .	Creditor's Certificate	400	5	15th May, 19 .		

R.S.O. 1960, c. 78, Form 6.



## FORM 7

*The Creditors' Relief Act*

(Section 32 (8) )

## NOTICE OF CONTESTATION OF SCHEME OF DISTRIBUTION

In the County Court of the County of .....

A. B. ...., Claimant

and

C. D. ...., Debtor

To C. D., debtor, and F. G. and M. N., claimants.

Take notice that I contest the scheme of distribution prepared by the Sheriff of the County of ..... in respect of the claims of you, the said F. G. and M. N., on the following ground (*state distinctly the ground*), and a copy of the judge's appointment to adjudicate upon the matter is served herewith.

Dated the ..... day of ....., 19....

X. Y.  
Contestant

R.S.O. 1960, c. 78, Form 7.

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## CHAPTER 98

**The Crop Insurance Act (Ontario)****1.** In this Act,

- (a) "Commission" means The Crop Insurance Commission of Ontario;
- (b) "contract of insurance" means a contract of insurance under a plan;
- (c) "Fund" means the Ontario Crop Insurance Fund;
- (d) "insurable crop" means an agricultural crop designated as an insurable crop by the regulations;
- (e) "Minister" means the Minister of Agriculture and Food;
- (f) "plan" means a plan of crop insurance established by the regulations;
- (g) "regulations" means the regulations made under this Act. 1966, c. 34, s. 1.

Interpre-  
tation

**2.—(1)** The Crop Insurance Commission of Ontario is continued as a corporation without share capital responsible to the Minister.

Crop  
Insurance  
Commission  
of Ontario  
continued

(2) The Commission shall be composed of not fewer than five members who shall be appointed by the Lieutenant Governor in Council.

Composition

(3) The Lieutenant Governor in Council may designate one of the members of the Commission as chairman and one as vice-chairman.

Chairman  
and vice-  
chairman

(4) Three members of the Commission, of whom one shall be the chairman or the vice-chairman, constitute a quorum.

Quorum

(5) Such members of the Commission as are not officers in the public service of Ontario shall receive such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

Remunera-  
tion

(6) No member of the Commission and no officer or other employee of the Commission is personally liable for anything done by him in good faith under or purporting to be under the authority of this Act or the regulations.

Liability

R.S.O. 1970,  
c. 89  
does  
not apply

(7) *The Corporations Act* does not apply to the Commission. 1966, c. 34, s. 2, *amended*.

General  
manager  
and staff

R.S.O. 1970,  
c. 386

**3.—**(1) A general manager of the Commission and such other officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Commission may be appointed under *The Public Service Act*.

Duties of  
general  
manager

(2) The general manager of the Commission shall be the chief administrative officer of the Commission, and the Commission may delegate to the general manager such of its powers and duties under this Act as it considers advisable.

Professional  
assistance

(3) The Commission may engage persons other than those appointed under subsection 1 to provide professional, technical or other assistance to or on behalf of the Commission. 1966, c. 34, s. 3, *amended*.

Functions of  
Commission

**4.** It is the function of the Commission and it has power,

- (a) to administer plans of crop insurance established by the regulations;
- (b) to conduct surveys and research programs relating to crop insurance and to obtain statistics for the purposes of the Commission;
- (c) to evaluate losses and pay claims under plans of crop insurance;
- (d) to enter into agreements with or retain persons for the soliciting and receiving of applications for insurance, the collecting of premiums and the adjusting of claims under plans for and on behalf of the Commission, and the doing of such other things on its behalf as the Commission considers necessary;
- (e) to reinsure with any other insurer the risk or any portion thereof under its contracts of insurance under any plan;
- (f) to require an applicant for crop insurance or an insured person to furnish such information, statements and reports as the Commission requires from time to time;
- (g) to administer this Act and the regulations;
- (h) to exercise such powers and perform such duties as are conferred or imposed upon it by or under this or any other Act; and
- (i) to perform such other functions and discharge such other duties as are assigned to it from time to time by the Lieutenant Governor in Council. 1966, c. 34, s. 4.

Regulations  
by  
Commission

**5.—**(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may make regulations establishing,

amending and revoking voluntary plans for the insurance within Ontario of insurable crops, and governing the terms and conditions of insurance under any plan and, without restricting the generality of the foregoing,

- (a) designating perils for the purposes of any plan;
- (b) determining coverage and establishing values with respect to insurable crops for the purposes of any plan;
- (c) fixing premium rates and providing for the payment and collection of premiums in respect of any plan;
- (d) prescribing forms and providing for their use, and requiring any information given in a form to be verified by statutory declaration;
- (e) fixing a final date in each year for the receipt of applications for crop insurance under any plan;
- (f) requiring applicants for crop insurance and insured persons to furnish such information, statements and reports as are prescribed;
- (g) designating insurable persons for the purposes of any plan.

(2) A plan may apply to one or more insurable crops, and the plan or any provisions thereof may apply to all of Ontario or to any area within Ontario. 1966, c. 34, s. 5. Application of regulations

(3) A plan may provide for insurance against loss arising when the seeding or planting of land intended to be used to grow an insured crop is prevented by a peril designated in the regulations. 1970, c. 71, s. 1. Where seeding of land prevented

**6.**—(1) The Lieutenant Governor in Council may make regulations, Regulations by Lieutenant Governor in Council

- (a) designating any agricultural crop as an insurable crop;
- (b) providing for the appointment of arbitrators, determining the constitution of boards of arbitration and regulating the practice and procedure of such arbitrators or boards of arbitration;
- (c) providing for the arbitration by an arbitrator or by a board of arbitration of disputes arising out of the adjustment of losses;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The decision of an arbitrator or a board of arbitration under the regulations is final. 1966, c. 34, s. 6. Decision of arbitrator or board of arbitration final

**7.**—(1) All moneys required by this Act to be paid in respect of premiums under plans and all moneys due under agreements of reinsurance shall be paid to the Commission. Payment of premiums



(2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to pay to the Commission out of the Consolidated Revenue Fund a sum equivalent to such percentage of the premiums payable under any plan or plans as the Lieutenant Governor in Council may determine. 1966, c. 34, s. 7.

**3.** If at any time the amount standing to the credit of the Fund is insufficient for the purpose of making payments for claims under plans, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to advance to the Commission out of the Consolidated Revenue Fund such sums as are necessary to meet the deficit on such terms and conditions as the Lieutenant Governor in Council may direct. 1966, c. 34, s. 8.

**9.—(1)** The Commission shall establish and maintain in a chartered bank a fund, to be known as the Ontario Crop Insurance Fund, to which shall be credited the moneys received by the Commission under sections 7 and 8.

(2) The Commission shall pay out of the Fund all moneys required for,

- (a) the payment of claims under plans;
- (b) the payment of premiums for reinsurance; and
- (c) the repayment of advances made under section 8, 1966, c. 34, s. 9.

**10.** The Commission may pay into the Consolidated Revenue Fund any surplus moneys in the Fund that are not necessary for the current requirements of the Commission, and section 16 of *The Financial Administration Act* applies thereto. 1966, c. 34, s. 10.

R.S.O. 1970,  
c. 166

**11.** The accounts and financial transactions of the Commission shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Commission and to the Minister. 1966, c. 34, s. 11.

**12.**—(1) The Commission shall make an annual report of the affairs of the Commission to the Minister.

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next ensuing session. 1966, c. 34, s. 12.

**13.**—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada as provided for in the *Crop Insurance Act* (Canada).

(2) Notwithstanding anything in this Act, no crop insurance plan shall be established unless an agreement made under subsection 1 applies to the plan. 1966, c. 34, s. 13.

**14.** *The Insurance Act* does not apply to any matter or thing done by or under this Act. 1966, c. 34, s. 14.

Extent of  
plans

R.S.O. 1970,  
c. 224  
does not  
apply

**15.** The moneys required for the purposes of administering this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1966, c. 34, s. 15, *amended*.

Moneys

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## CHAPTER 99

**The Crown Administration of Estates  
Act**

**1.** Where in the case of a person dying intestate or intestate as to some part of his estate it appears that in respect of the interest of Her Majesty administration may be rightfully granted to her nominee, a competent court, upon application of the Public Trustee, may grant administration to the Public Trustee for the use and benefit of Her Majesty. R.S.O. 1960, c. 80, s. 1.

Where administration may issue to Public Trustee

**2.** Where a person dies in Ontario intestate without leaving any known next of kin living in Ontario or where the only next of kin are infants and there is no near relative in Ontario willing and competent to apply for a grant of administration or to nominate some person to apply for such a grant, the Public Trustee may apply for letters of administration, general or limited, of the estate of such person and a competent court upon the application may grant administration to the Public Trustee for the use and benefit of Her Majesty or of such persons as ultimately appear to be entitled thereto. R.S.O. 1960, c. 80, s. 2; 1966, c. 35, s. 1.

Administration where intestate leaves no known adult next of kin in Ontario

**3.—(1)** Notice of every application for letters of administration of the estate of a person who has died in Ontario intestate and without leaving any known adult next of kin living in Ontario shall be given by the registrar of the surrogate court to the Public Trustee before the issue of letters of administration to any other person, and the Public Trustee may, within thirty days after the receipt of the notice, apply for a grant of letters of administration as provided in section 2.

Notice to Public Trustee

**(2)** Where the Public Trustee consents, letters of administration may issue to the applicant without waiting for the expiry of thirty days. R.S.O. 1960, c. 80, s. 3.

Letters of administration within 30 days

**4.** It is not necessary for the Public Trustee to give security for the due administration of the estate, but he has all the rights and powers of and is subject to all the liabilities and duties imposed on an administrator. R.S.O. 1960, c. 80, s. 4.

Security dispensed with

**5.—(1)** Where administration is granted to the Public Trustee, the Lieutenant Governor in Council may direct the sale, by auction or private sale, of any real estate or interest therein in Ontario to which the intestate died entitled, and the Public Trustee is thereupon authorized to sell in accordance with the directions of the order in council the whole or any part of the real

Power to sell the real estate of the intestate



estate or interest and to convey it to the purchaser free of any claim for dower or curtesy, and every conveyance by the Public Trustee is as valid and effectual as if the deceased were alive and unmarried at the time of its making and had executed it. R.S.O. 1960, c. 80, s. 5; 1966, c. 35, s. 2 (1).

Application  
of subs. 1,  
as amended  
in 1966

(2) Subsection 1, as amended by *The Crown Administration of Estates Amendment Act, 1966*, applies to conveyances of real estate or interests therein of persons who die after the 6th day of April, 1966. 1966, c. 35, s. 2 (2), *amended*.

Rights of  
relatives  
after the  
issue of ad-  
ministration

**6.** Where after the grant of administration it is alleged or ascertained that the deceased has relatives or did not die intestate, the Public Trustee, subject to the direction of the Lieutenant Governor in Council, may exercise all or any of the powers by this Act conferred until some person is appointed by a court of competent jurisdiction to deal with the estate of the deceased, and, notwithstanding such appointment, any sale made in pursuance of this Act may be completed by the execution by the Public Trustee of a conveyance, and, until the revocation of the letters granted, the Public Trustee may exercise fully all the powers vested in him as administrator. R.S.O. 1960, c. 80, s. 6.

Inquiry as to  
the rights of  
Her Majesty

**7.** Where administration is granted under this Act, the Public Trustee may apply to the Supreme Court for an order for the making of such inquiries as are necessary to determine whether or not Her Majesty is entitled to any portion of the estate of the deceased by reason of the deceased having died intestate and without heirs or next of kin or otherwise, and any judgment pronounced upon such inquiry is, unless reversed on appeal or varied upon a substantive application to the court, final and conclusive. R.S.O. 1960, c. 80, s. 7.

Recovery by  
Crown of  
real estate of  
persons  
dying intes-  
tate and  
without heirs

**8.** Where a person dies in possession of or entitled to real estate in Ontario intestate as to such real estate without any known heirs, the Public Trustee without obtaining letters of administration may take possession of such real estate, and if necessary may bring an action, either in his own name, on behalf of Her Majesty, or in the name of Her Majesty, to recover possession of such real estate and is entitled to judgment and to recover possession, unless the person claiming adversely shows that the deceased did not die intestate as to such real estate, or that he left heirs, or that he or some other person is entitled to such real estate. R.S.O. 1960, c. 80, s. 8.

Application  
by Public  
Trustee to  
compel an  
account by  
administra-  
tor in certain  
cases

**9.** Where a person has died intestate in Ontario and administration has been granted to a person not one of the next of kin and it is doubtful whether the intestate left any next of kin surviving him or there are no known next of kin resident in Ontario, the Public Trustee may apply to the Supreme Court for an order requiring the administrator to account for his dealings with the

estate, and may question in such proceedings the validity of any release or settlement with any alleged next of kin, and a competent court may revoke such administration and grant administration to the Public Trustee. R.S.O. 1960, c. 80, s. 9.

**10.** Money realized from estates to which the Public Trustee is administrator under this Act or that he has recovered under section 8 shall be kept in such bank or invested in such manner as the Lieutenant Governor in Council directs, and all such money that has been unclaimed for ten years from the death of the intestate shall be paid into the Consolidated Revenue Fund. R.S.O. 1960, c. 80, s. 10.

Disposition of moneys

**11.** Any person proving title to such money is entitled to receive it with interest at such rate as the Lieutenant Governor in Council may direct. R.S.O. 1960, c. 80, s. 11.

Interest on money claimed

**12.** Any person claiming to be entitled to any such estate or to any interest therein or to any part of the proceeds thereof may apply to the Supreme Court for an order declaring his rights with respect thereto, and the court may direct such inquiries as are necessary to determine the same, and may finally adjudicate thereon, but no application under this section shall be entertained unless security for costs is given by the applicant if the Public Trustee demands security. R.S.O. 1960, c. 80, s. 12.

Remedy of persons having claims upon the estate

**13.** The Public Trustee may deduct from the money received on account of an estate all disbursements made by him in respect of inquiries that he made before taking out letters of administration, as well as disbursements otherwise made by him in respect of the estate, and a commission for his services not exceeding 5 per cent of all moneys received by him as administrator. R.S.O. 1960, c. 80, s. 13.

Right of Public Trustee to disbursements and commission

**14.—(1)** After having given the notice provided for by *The Trustee Act* and notwithstanding that the ten years limited by section 10 have not elapsed, the Public Trustee may pay any money remaining unclaimed in his hands into the Consolidated Revenue Fund, or may pay the money or any part thereof, or assign any personal property remaining in his hands, in accordance with any direction of the Lieutenant Governor in Council made under *The Escheats Act*.

Distribution of assets by Public Trustee  
R.S.O. 1970, c. 470

R.S.O. 1970, c. 149

**(2)** In such case, no claim shall be maintained against Her Majesty or the Province in respect of any money or personal property paid over or assigned to any person under *The Escheats Act* or under this Act, but this does not prejudice the right of a creditor or claimant to follow such money, property or proceeds into the hands of the person who has received the same under the authority of an order in council. R.S.O. 1960, c. 80, s. 14.

Non-liability of Her Majesty and the Province



## CHAPTER 100

**The Crown Agency Act**

**1.** In this Act, "Crown agency" means a board, commission, railway, public utility, university, manufactory, company or agency owned, controlled or operated by Her Majesty in right of Ontario, or by the Government of Ontario, or under the authority of the Legislature or the Lieutenant Governor in Council. R.S.O. 1960, c. 81, s. 1.

Interpre-  
tation

**2.** A Crown agency is for all its purposes an agent of Her Majesty and its powers may be exercised only as an agent of Her Majesty. R.S.O. 1960, c. 81, s. 2.

Status of  
Crown  
agency

**3.** This Act does not affect The Hydro-Electric Power Commission of Ontario. R.S.O. 1960, c. 81, s. 3.

H.E.P.C.  
not  
affected

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## CHAPTER 101

**The Crown Attorneys Act**

**1.**—(1) The Lieutenant Governor in Council may appoint a Crown attorney for each county and for each provisional judicial district and such Crown attorneys and assistant Crown attorneys for the Province as he considers necessary. R.S.O. 1960, c. 82, s. 1; 1964, c. 15, s. 1 (1). Appointment

(2) The Crown attorneys and assistant Crown attorneys appointed for the Province or a county or provisional judicial district thereof shall act anywhere in the Province as directed by the Director of Public Prosecutions. 1964, c. 15, s. 1 (2); 1967, c. 18, s. 1. Special  
Crown  
attorneys

**2.** The Lieutenant Governor in Council may appoint one or more assistant Crown attorneys for any county or provisional judicial district who shall act under the direction of the Crown attorney and when so acting has the like powers and shall perform the like duties as the Crown attorney. R.S.O. 1960, c. 82, s. 2. Assistant  
Crown  
attorneys

**3.**—(1) The Lieutenant Governor in Council may appoint a Crown Attorney, a Deputy Crown Attorney and such assistant Crown attorneys as he deems necessary for the Judicial District of York who shall be known respectively as the Crown Attorney, the Deputy Crown Attorney and the Assistant Crown Attorneys for the Judicial District of York. Judicial  
District  
of York

(2) The Deputy Crown Attorney and the Assistant Crown Attorneys for the Judicial District of York shall act under the direction of the Crown Attorney for the Judicial District of York and when so acting shall have the like powers and perform the like duties as the Crown Attorney for the Judicial District of York. 1961-62, c. 26, s. 1, *amended*. Idem

**4.** No person shall be appointed a Crown attorney or assistant Crown attorney or act in either of such capacities who is not a member of the bar of Ontario. R.S.O. 1960, c. 82, s. 4. Qualifica-  
tion

**5.**—(1) When a Crown attorney or an assistant Crown attorney is absent or ill or is unable to perform all his duties, the Deputy Minister of Justice and Deputy Attorney General may appoint a member of the bar of Ontario to act *pro tem* as Crown attorney or assistant Crown attorney, as the case may be, during the period that the Crown attorney or assistant Crown attorney is absent or ill or is unable to perform all his duties. 1961-62, c. 26, s. 2, *amended*. Pro tem  
appoint-  
ments

Idem

(2) When there is a vacancy in the office of Crown attorney, the Deputy Minister of Justice and Deputy Attorney General may appoint a member of the bar of Ontario to act *pro tem* as Crown attorney until the vacancy is filled by the Lieutenant Governor in Council. 1962-63, c. 29, s. 1, *amended*.

Clerk of the peace

**6.**—(1) Except in the Judicial District of York, every Crown attorney is *ex officio* clerk of the peace for the county or district for which he is Crown attorney.

Judicial District of York

(2) In the Judicial District of York, the offices of Crown attorney and clerk of the peace may be held by different persons.

Court duties

(3) Where the offices of Crown attorney and clerk of the peace are held by the same person, the duties that the clerk of the peace is required to perform in the court room during the sittings of the court of general sessions of the peace and of the county or district court judges' criminal court shall be performed by the clerk of the county or district court. R.S.O. 1960, c. 82, s. 6, *amended*.

*Pro tem* appointments

(4) When a Crown attorney is absent or ill or is unable to perform his duties as clerk of the peace, or when there is a vacancy in the office of clerk of the peace, the Deputy Minister of Justice and Deputy Attorney General may appoint another Crown attorney to act *pro tem* as clerk of the peace during the period that the Crown attorney is absent or ill or is unable to perform his duties as clerk of the peace, or until there is no longer a vacancy in the office of the clerk of the peace, as the case may be. 1967, c. 18, s. 2, *amended*.

Fees

**7.**—(1) Unless it is otherwise provided by the Lieutenant Governor in Council, every Crown attorney is entitled to the fees of his office, including the fees received from his office as clerk of the peace.

Commutation of fees

(2) The Lieutenant Governor in Council may commute the fees payable to a Crown attorney, including the fees receivable from his office as clerk of the peace, for a fixed annual sum, and may from time to time fix an annual allowance to cover the expenses of his office.

Assistants

(3) Every assistant Crown attorney is entitled to such per diem allowance or such salary as may be fixed by the Lieutenant Governor in Council. R.S.O. 1960, c. 82, s. 7 (1-3).

*Pro tem* Crown attorneys

(4) Every Crown attorney appointed *pro tem* by the Deputy Minister of Justice and Deputy Attorney General is entitled to the fees of his office, including the fees receivable from his office as clerk of the peace. R.S.O. 1960, c. 82, s. 7 (4); 1962-63, c. 29, s. 2, *amended*.

**8.** Every Crown attorney shall give security for the due performance of the duties of his office and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant Governor in Council may direct. R.S.O. 1960, c. 82, s. 10. Security

**9.** Every Crown attorney and every assistant Crown attorney, before he enters upon his duties, shall take and subscribe before a judge of the county or district court of the county or district for which he is appointed the following oath: Oath of office

I swear that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of Crown attorney (or assistant Crown attorney) for the County (or District) of . . . . . without favour or affection to any party: So help me God.

R.S.O. 1960, c. 82, s. 11.

**10.—(1)** No Crown attorney or assistant Crown attorney shall, by himself or through any partner in the practice of law, act or be directly or indirectly concerned as counsel or solicitor for any person in respect of any offence charged against such person under the laws in force in Ontario. R.S.O. 1960, c. 82, s. 12. Prohibition

(2) Subsection 1 does not apply to part-time assistant Crown attorneys. 1964, c. 15, s. 2. Exception

**11.** Every Crown attorney is the agent of the Minister of Justice and Attorney General for the purposes of the *Criminal Code* (Canada). R.S.O. 1960, c. 82, s. 13, *amended*. Minister of Justice and Attorney-General's agent  
1953-54, c. 51 (Can.)

**12.** The Crown attorney shall aid in the local administration of justice and perform the duties that are assigned to Crown attorneys under the laws in force in Ontario, and, without restricting the generality of the foregoing, every Crown attorney shall, Duties:

- (a) examine informations, examinations, depositions, recognizances, inquisitions and papers connected with offences against the laws in force in Ontario that the provincial judges, justices of the peace and coroners are required to transmit to him, and, where necessary, cause such charges to be further investigated, and additional evidence to be collected, and sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions may not be delayed unnecessarily or fail through want of proof; to examine informations, etc.
- (b) conduct, on the part of the Crown, preliminary hearings of indictable offences and prosecutions for indictable offences, to conduct prosecutions



- (i) at the sittings of the Supreme Court where no law officer of the Crown or other counsel has been appointed by the Minister of Justice and Attorney General,
- (ii) at the court of general sessions of the peace,
- (iii) at the county or district court judges' criminal court, and
- (iv) before provincial judges in summary trials of indictable offences under the *Criminal Code* (Canada),
- in the same manner as the law officers of the Crown conduct similar prosecutions at the sittings of the Supreme Court, and with the like rights and privileges, and attend to all criminal business at such courts;
- special Crown counsel (c) where a law officer of the Crown or other counsel has been appointed by the Minister of Justice and Attorney General, deliver to the Crown officer or other counsel all papers connected with the criminal business at the sittings of the Supreme Court before the opening of the court and, if required, be present at the court and assist the Crown officer or other counsel;
- cases brought by private prosecutors (d) watch over cases conducted by private prosecutors and, without unnecessarily interfering with private individuals who wish in such cases to prosecute, assume wholly the conduct of the case where justice towards the accused seems to demand his interposition;
- summary conviction matters (e) where in his opinion the public interest so requires, conduct proceedings in respect of any offence punishable on summary conviction;
- government prosecutions (f) when requested in writing, cause prosecutions for offences against any Act of the Legislature to be instituted on behalf of any governmental department or agency and conduct such prosecutions to judgment and to appeal, if so instructed;
- summary conviction appeals (g) where in his opinion the public interest so requires, conduct appeals to the county or district court for offences punishable on summary conviction;
- justices of the peace (h) advise justices of the peace with respect to offences against the laws in force in Ontario;
- forms (i) procure the necessary forms for the use of justices of the peace, and supply them as needed, the expense of which shall be paid out of the county funds as part of the expenses connected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the clerk of the peace; and

- (j) where a prisoner is in custody charged with or convicted of an offence and an application is made for bail, inquire into the facts and circumstances and satisfy himself as to the sufficiency of the surety or sureties offered, and examine and approve of the bail bonds where bail is ordered. R.S.O. 1960, c. 82, s. 14, *amended*.

**13.** Where a person is committed for trial to answer a criminal charge, the committing provincial judge shall deliver or cause to be delivered without delay to the Crown attorney the informations, depositions, examinations, recognizances and papers connected with the charge, and the Crown attorney is the "proper officer of the court by which the accused is to be tried" within the meaning of the committal for trial provisions of the *Criminal Code* (Canada) and, where an information has been laid before a justice of the peace, whether proceedings have been taken thereon or not, the justice shall deliver to the Crown attorney all papers connected therewith on being required by him so to do. R.S.O. 1960, c. 82, s. 15, *amended*.

Provincial judges and justices to deliver informations, etc., to Crown attorney

1953-54, c. 51 (Can.)

**14.** Every Crown attorney, except a Crown attorney on fees, shall collect all fees payable to him as Crown attorney and clerk of the peace and remit them to the Inspector of Legal Offices by cheque payable to the Treasurer of Ontario quarterly on the 1st day of January, April, July and October in each year, together with a statement showing the fees collected. R.S.O. 1960, c. 82, s. 16.

Collection and payment over of fees

**15.** Every Crown attorney and clerk of the peace shall, on or before the 31st day of January in every year, make to the Inspector of Legal Offices a return, verified by statutory declaration, of the aggregate amount of the fees and emoluments of his office during the preceding year, up to and including the 31st day of December. R.S.O. 1960, c. 82, s. 17.

Annual returns

**16.** The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with prosecutions instituted on behalf of any governmental department or agency, and providing for the payment and disposition thereof;
- (b) prescribing fees and travelling allowances for Crown attorneys or any class thereof in connection with appeals to the county or district court for offences punishable on summary conviction, and providing for the payment thereof;
- (c) fixing the responsibility for the payment of fees and travelling allowances of Crown attorneys;

R.S.O. 1970,  
c. 450

- (d) providing that counsel fees collected from defendants under *The Summary Convictions Act* shall be credited on the Crown attorney's fees that are properly payable to him by a municipality or a governmental department or agency;
  - (e) providing fees and charges payable to Crown attorneys not otherwise provided for under this or any other Act, and providing for the payment thereof;
  - (f) for carrying out the provisions of any Act imposing duties upon or touching the office of Crown attorney;
  - (g) with respect to the prosecution by Crown attorneys of offenders against the laws in force in Ontario;
  - (h) providing for the safekeeping, inspection and destruction of books, documents and papers of Crown attorneys;
  - (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 82, s. 18.
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## CHAPTER 102

## The Crown Timber Act

## 1. In this Act,

Inter-  
pretation

- (a) "Crown charges" includes all charges and dues in respect of Crown timber, interest, costs, expenses and penalties imposed under this Act or the regulations or by a licence, and all other charges, rents and claims of the Crown in connection with a licensed area;
- (b) "Crown timber" means timber on public lands or timber that is the property of the Crown under the management of the Minister on lands other than public lands;
- (c) "cull" means a defective log as defined by the manual of scaling instructions;
- (d) "Department" means the Department of Lands and Forests;
- (e) "licence" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber;
- (f) "licensed area" means the lands upon which the right to cut Crown timber is authorized by a licence;
- (g) "licensee" means a person to whom a licence has been granted or to whom a licence has been assigned with the consent of the Minister or in whom a licence has become vested by operation of law;
- (h) "mill" means a plant in which logs or wood-bolts are initially processed, and includes a saw mill and a pulp mill;
- (i) "Minister" means the Minister of Lands and Forests;
- (j) "officer or agent" means a person employed or appointed to assist in the administration of this Act;
- (k) "productive lands" means lands that are not rock barrens, muskeg or lands covered with water;
- (l) "professional forester" means a person registered under *The Ontario Professional Foresters Association Act, 1957*; 1957, c. 149
- (m) "public lands" means the lands vested in Her Majesty in right of Ontario and under the management of the Minister, and includes the lands in respect of which a lease, licence of occupation or permit has been granted or issued under *The Mining Act, The Provincial Parks Act or The Public Lands Act*;

R.S.O. 1970,  
cc. 274, 371, 380



- (n) "regulations" means the regulations made under this Act;
- (o) "stumpage charges" means the amount equal to the total of the amount of the Crown dues and any other amounts added thereto in fixing the price to be paid for Crown timber;
- (p) "unproductive lands" means rock barrens, muskeg or lands covered by water. R.S.O. 1960, c. 83, s. 1; 1964, c. 16, s. 1; 1966, c. 36, s. 1.

## LICENCES TO CUT CROWN TIMBER

Sale of  
Crown  
timber by  
tender

**2.—**(1) The Minister may offer Crown timber for sale by tender either,

- (a) to the public generally; or
- (b) to any particular class or group of persons who in his opinion are or may be interested in such timber as a source of supply of raw materials for mills in existence at the time the offer is made.

Licences  
to cut Crown  
timber

(2) The Minister may grant a licence to cut such timber to the person making the highest tender therefor for such period as he considers proper, subject to such terms and conditions as are prescribed in the regulations and subject to such other terms and conditions as he considers proper and that are not inconsistent with the regulations.

Acceptance  
of tenders

(3) The Minister is not obliged to accept the highest tender. R.S.O. 1960, c. 83, s. 2.

Proof of  
ability to  
use timber

(4) The Minister shall not grant a licence under subsection 2 until the highest tenderer has furnished proof that he owns and is operating a mill or that he has a contract to supply wood to a mill.

Grant of  
licence to  
next highest  
tenderer

(5) Where the highest tenderer fails to furnish the proof mentioned in subsection 4 within thirty days of the sending to him by the Minister of notice to furnish such proof, the Minister may, subject to the furnishing of the proof mentioned in subsection 4, grant to the next highest tenderer a licence having the same terms, conditions and prices as those tendered by the highest tenderer. 1966, c. 36, s. 2 (1).

Renewal of  
licence

(6) Where a licence has been granted under subsection 2 and the cutting of the timber authorized by the licence was not completed before the licence expired, the Minister may renew the licence for one term not exceeding three years, subject to such terms and conditions as are prescribed by the regulations and subject to such other terms and conditions as he considers proper and that are not inconsistent with the regulations. R.S.O. 1960, c. 83, s. 2 (4); 1964, c. 16, s. 2.

(7) Notwithstanding subsection 1, the Minister may grant licences to cut Crown timber at such rates and subject to such terms and conditions as he considers proper, if the stumpage charges payable for such timber do not exceed \$2,000. R.S.O. 1960, c. 83, s. 2 (5); 1966, c. 36, s. 2 (2).

Licences  
if charges  
not more  
than \$2,000

(8) Where for any reason the holder of a licence issued under subsection 2 or 6 does not operate a mill or does not supply wood from the licensed area to a mill during a period of twelve months ending on the 31st day of March in any year, the Minister may cancel the licence as of that day. 1966, c. 36, s. 2 (3).

Failure to  
operate

**3.**—(1) The Minister, with the approval of the Lieutenant Governor in Council, may grant licences to cut Crown timber for such periods and subject to such terms and conditions as are prescribed by the regulations and at such prices and subject to such other terms and conditions as the Minister considers proper and that are not inconsistent with the regulations. R.S.O. 1960, c. 83, s. 3 (1).

Licences  
granted with  
approval of  
Lieutenant  
Governor in  
Council

(2) Where a licence has been granted under subsection 1 and the cutting of the timber authorized by the licence was not completed before the licence expired, the Minister may renew the licence for one term of one year, subject to the same terms and conditions as were contained in the licence. 1964, c. 16, s. 3 (1).

Renewal of  
licence

(3) Where a licence to cut Crown timber is granted under subsection 2 of section 2 or under subsection 1 or is renewed under subsection 6 of section 2 or under subsection 2, the Minister may,

Terms and  
conditions

(a) determine from time to time the prices at which species of timber may be cut where the prices for such species are not specifically set out in the licence; and

(b) grant to a licensee, from time to time during the term of the licence, rights to cut on the licensed area additional species not set out in the licence at such prices and upon such terms and conditions as he considers proper. 1966, c. 36, s. 3.

**4.** The Minister, with the approval of the Lieutenant Governor in Council, may designate any public lands as a Crown management unit and enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon. R.S.O. 1960, c. 83, s. 4.

Crown  
management  
unit

**5.**—(1) Where Crown timber in respect of which a licence has not been granted has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the

Salvage  
licences

interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

Direction to  
licensee to  
cut killed  
or damaged  
timber

(2) Where Crown timber in respect of which a licence has been granted has been killed or damaged, the Minister may direct the licensee to cut such timber and any other timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

Failure or  
neglect of  
licensee

(3) Where a licensee refuses or neglects to comply with a direction of the Minister under subsection 2 within such time as is fixed by the Minister, the Minister may cancel or vary the licence in respect of the timber directed to be cut and may grant licences to persons other than the licensee to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper. R.S.O. 1960, c. 83, s. 5.

Areas to  
be stated

**6.**—(1) Every licence shall state the total area of the lands comprised therein and the area of the productive lands and the area of the unproductive lands included in such total area. 1964, c. 16, s. 4.

Forest  
protection  
and man-  
agement  
charges

(2) Every licensee shall pay annually a forest protection charge and a management charge in respect of the productive lands comprised in the licensed area. 1968, c. 24, s. 1.

Survey

**7.**—(1) The Minister may at any time cause a survey to be made to establish or re-establish the boundaries of any licensed area and the cost of such survey shall be borne by the licensee or, where the boundary in question is a division line between two licensed areas, the cost of such survey shall be borne by the respective licensees in such proportions as the Minister considers proper.

Idem

(2) Where it appears that Crown timber has been cut without the authority of a licence and there is a dispute as to the boundaries of the area of the cutting, the Minister may cause a survey to be made to establish or re-establish such boundaries, and, where as a result of the survey it is established that Crown timber was cut without authority, the cost of the survey, in addition to any penalty that may be imposed, shall be borne by the person responsible for such cutting. R.S.O. 1960, c. 83, s. 7.

Species and  
lands to be  
described

**8.**—(1) Every licence shall name the species of timber and describe the lands upon which such timber may be cut.

(2) If a licence is found to comprise a species of timber or lands included in an earlier licence, the later licence is void in so far as it conflicts with the earlier licence, and the person holding the later licence has no claim against the Minister for indemnity or compensation by reason thereof. R.S.O. 1960, c. 83, s. 8.

Conflicting  
licences

**9.** A licence does not confer on the licensee any right to the soil or freehold of the licensed area or to the exclusive possession thereof except as is in the opinion of the Minister necessary for the cutting and removal of the timber thereon and the management of the licensed area and operations incidental thereto. R.S.O. 1960, c. 83, s. 9.

Rights of  
licensee in  
area  
limited

**10.**—(1) Subject to the payment of Crown charges, the property in all timber of the species set out in a licence and cut during the term of the licence vests in the licensee at the time the timber is cut.

Effect of  
licence

(2) Crown charges in respect of all timber of the species set out in the licence cut on a licensed area during the term of the licence shall be paid by the licensee whether the timber is cut by the licensee or by any other person with or without his consent. R.S.O. 1960, c. 83, s. 10.

Crown  
charges to  
be paid

**11.**—(1) Every licence entitles the licensee to seize all timber of the species set out in the licence cut on the licensed area during the term of the licence wherever the timber is found in the possession of a person not entitled thereto and to maintain an action against a person wrongfully cutting or damaging or having wrongful possession of the timber.

Rights of  
licensee in  
his timber

(2) All proceedings pending at the expiration of a licence may be continued to final termination as if the licence had not expired. R.S.O. 1960, c. 83, s. 11.

Continuation  
of  
proceedings

**12.**—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence is granted a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly granted by the licence.

Timber on  
patented  
lands

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence is granted have been located or sold under *The Public Lands Act*. R.S.O. 1960, c. 83, s. 12.

No rights  
to cut on  
located or  
sold lands  
R.S.O. 1970,  
c. 380

**13.**—(1) No licensee shall commence cutting operations in any year until the Minister has approved in writing the area in which the cutting operations are to be carried on in that year. R.S.O. 1960, c. 83, s. 13 (1).

Commence-  
ment of  
cutting  
operations



Default of  
charges

(2) Where a licensee does not pay the Crown charges within thirty days of the date the account therefor was sent to him, the Minister may withhold the approval mentioned in subsection 1 until such Crown charges are paid. 1966, c. 36, s. 4.

Timber to be  
manufactured in  
Canada

**14.**—(1) Every licence is subject to the condition that all timber cut thereunder, except timber that is used in Canada in an unmanufactured state for fuel, building or other purposes, shall, except as provided in subsection 3, be manufactured in Canada into ties, poles, pit props, lumber, veneer or such like products or into pulp. R.S.O. 1960, c. 83, s. 14 (1).

Lumber  
chips  
deemed  
to be manu-  
factured

(2) For the purpose of subsection 1, chips produced as a by-product of the manufacture of lumber shall be deemed to be manufactured into lumber. 1961-62, c. 27, s. 1.

Power to  
suspend  
operation  
of subs. 1

(3) The Lieutenant Governor in Council, after giving thirty days notice of his intention so to do by publication in *The Ontario Gazette*, may suspend the operation of subsection 1 as to any kind or class of timber that he designates and as to any area that he defines and for such period and upon such other terms and conditions as he considers proper. 1968, c. 24, s. 2.

Certificate  
and  
affidavit or  
declaration

**15.** Every person who applies to the Department for a customs clearance document relating to the export of timber shall make a statement by affidavit or by statutory declaration respecting the timber in such form as the Minister prescribes. R.S.O. 1960, c. 83, s. 15.

Assignment,  
etc., of  
licences

**16.**—(1) A licence shall not be assigned, pledged or charged without the consent in writing of the Minister and permission to cut timber on a licensed area shall not be granted by a licensee without the consent in writing of the Minister, and he is not under any circumstances bound to give such consent and he may impose such terms and conditions as he considers proper.

Consent of  
Minister

(2) An assignment, pledge or charge of a licence or permission to cut on a licensed area does not have any force or validity unless the Minister has consented thereto in writing. R.S.O. 1960, c. 83, s. 16.

Cancellation  
of licence

(3) Where an application is made to the Minister for his consent under subsection 1 and he is of opinion that the licensee's cutting operations on and improvements of the licensed area have not been adequate in all the circumstances, he may cancel the licence. 1966, c. 36, s. 5.

Records

**17.** Every licensee shall keep in connection with every cutting operation such records relating to the quantity of timber cut as are required by the Minister and such records shall be open at all times to the inspection of any officer or agent and shall at the end of each cutting season be delivered to an officer or agent. R.S.O. 1960, c. 83, s. 17.

**18.** Notwithstanding the granting of a licence, the Minister may, Additional powers

- (a) subject to this Act, dispose of any Crown timber not expressly mentioned in the licence; and
- (b) after thirty days written notice to the licensee specifying the action proposed to be taken and giving him an opportunity to be heard, sell, lease, grant or otherwise dispose of any public lands included in a licensed area for any purpose for which public lands may be disposed of under *The Public Lands Act*, and upon such sale, lease or grant being made all rights of the licensee in respect of the timber on such lands cease. R.S.O. 1970, c. 380  
R.S.O. 1960, c. 83, s. 18.

#### LIEN FOR CROWN CHARGES AND SEIZURE OF TIMBER

**19.** All Crown charges are a lien and charge upon timber cut by a licensee under the authority of any licence and upon any product manufactured from such timber in preference and priority to any and all other fees, charges, liens or claims whatsoever. Lien for Crown charges  
R.S.O. 1960, c. 83, s. 19.

**20.—(1)** Any officer or agent may seize and detain any timber and any product manufactured from such timber, Seizure of timber and products

- (a) where the person for the time being in possession or control of the timber or product refuses or fails to inform the officer or agent of the name and address of the person from whom the timber or product was received or of any fact within his knowledge respecting the timber or product; or
- (b) where the officer or agent believes on reasonable grounds that the timber or the timber from which the product was manufactured has not been measured or counted by a scaler as required by this Act; or
- (c) where the officer or agent believes on reasonable grounds that Crown charges are owing by the licensee in respect of the timber or the timber from which the product was manufactured or any other timber; or
- (d) where the officer or agent believes on reasonable grounds that the timber or the timber from which the product was manufactured was not cut under the authority of a licence.

(2) Any timber or product that is seized under subsection 1 may be removed to such place as the officer or agent considers proper for the protection of the timber or product and, if it is seized when in possession of a carrier, it shall be removed by the carrier on behalf of the Minister to such place as the officer or agent may direct, but Removal of seized timber and products

- (a) the Minister is liable for transportation and all other proper charges incurred in consequence of the directions given by the officer or agent; and
- (b) such seizure does not prejudice or affect any lien to which the carrier is entitled in respect of the timber or product up to the time of such seizure.

Timber  
mixed with  
other timber

(3) Where timber liable to seizure under this section has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed at a mill or elsewhere as to render it impractical or difficult to distinguish such timber from other timber with which it is mixed, the whole of the timber so mixed may be seized and detained. R.S.O. 1960, c. 83, s. 20.

Forfeiture  
of seized  
timber and  
products

**21.** Where timber or any product manufactured therefrom has been seized and no claim to recover it is made within thirty days from the date of the seizure, the timber or product shall be deemed to be forfeited to and becomes the property of the Crown and may be dealt with in such manner as the Minister may direct. R.S.O. 1960, c. 83, s. 21.

Notice of  
lien

**22.** Where timber or any product manufactured therefrom is subject to a lien and charge under section 19 and is under seizure or attachment by a sheriff or a bailiff of a court, or is claimed by or is in the possession of any assignee for the benefit of creditors, or any liquidator, or any trustee in bankruptcy, or where such timber or product has been converted into cash that has not been distributed, the Minister may give to the sheriff, bailiff, assignee, liquidator or trustee in possession of such timber or product, or cash, notice of the amount due or owing under such lien and charge, and thereupon the sheriff, bailiff, assignee, liquidator or trustee shall pay the amount so due or owing to the Treasurer of Ontario in preference to and in priority over all other fees, charges, liens or claims whatsoever. R.S.O. 1960, c. 83, s. 22; 1968, c. 24, s. 3.

#### PROCEEDINGS FOLLOWING SEIZURE OF TIMBER

Order for  
release from  
seizure

**23.—(1)** A person claiming to be the owner of timber or a product manufactured therefrom that has been seized under this Act, upon at least four days notice to the Minister, may apply to a judge of the county or district court of the county or district in which the timber or product is held under seizure for an order for its release from seizure and its delivery to him.

Order for  
release and  
delivery to  
claimant

(2) Upon receipt of a bond of the claimant, with two good and sufficient sureties, in an amount not less than the market value of the timber or product and the expenses of the seizure, to be forfeited to the Crown if the claimant is declared by the judge not to be the owner of the timber or product, the judge may order the timber or product to be released from seizure and to be delivered to the claimant.

(3) Upon the application of the Minister or the claimant, and upon at least seven days notice, the judge shall determine the ownership of the timber or product whether or not it has been released and delivered to the claimant under subsection 2 and shall make an order, Order as to ownership

- (a) declaring the claimant to be the owner,
  - (i) free of any claim for Crown charges, or
  - (ii) subject to payment of such Crown charges and expenses as he finds to be owing; or
- (b) declaring the claimant not to be the owner and the bond, if any, forfeited to the Crown.

(4) The judge shall make such order as he considers proper as to the costs of proceedings under this section and the expenses of seizure. Costs of proceedings

(5) If the claimant is declared not to be the owner of the timber or product, it shall be disposed of in such manner as the Minister determines. Disposal R.S.O. 1960, c. 83, s. 23.

#### FOREST MANAGEMENT

**24.**—(1) Every licensee shall, when required by the Minister, furnish within such period as is fixed by the Minister a management plan, Management plans

- (a) consisting of a report, inventory, maps and an operating plan prepared in conformity with the manual of management plan requirements authorized by the Minister; and
- (b) prepared under the supervision of a professional forester and certified by him in the following form:

I hereby certify that this plan has been prepared under my personal supervision and that all field work and calculations have been carried out to the best of my skill and judgment in accordance with the manual of management plan requirements.

(2) Every licensee who is not required to submit a management plan under subsection 1 shall, when required by the Minister and within such period as is fixed by the Minister, furnish an operating plan showing the proposed operations and a statement of the purpose for which the timber is to be used. When operating plan to be furnished

(3) The Minister may approve a management plan or operating plan as submitted to him or may approve it with such alterations therein as he considers advisable. Approval of plans

(4) A licensee shall conduct all operations on his licensed area in accordance with the approved management plan or operating plan, as the case may be. Management of the area according to plan



Plans not  
submitted  
on time

(5) Where a licensee fails to furnish a management plan or an operating plan, as the case may be, within the period fixed by the Minister, the Minister may cause the plan to be prepared, and the cost thereof shall be a claim of the Crown in connection with the licensed area. 1964, c. 16, s. 5.

Information  
to be fur-  
nished  
annually

**25.**—(1) Every licensee shall furnish to the Minister,

- (a) at least thirty days before cutting operations commence in each year, an annual plan for the cutting operations to be conducted by him during the twelve-month period commencing on the 1st day of April in that year; and
- (b) not later than the 31st day of October in each year a map showing the boundaries and the acreages of the areas cut over and the parts thereof that were not cut during the twelve-month period ending on the 31st day of March of that year together with a statement of the acreages of the areas cut over, the parts thereof that were not cut and the amount, species and size of timber cut from each cutting area during such period. R.S.O. 1960, c. 83, s. 25 (1); 1961-62, c. 27, s. 2 (1); 1966, c. 36, s. 6.

Alteration  
of plan

(2) The Minister may approve an annual plan or may approve it with such alterations as he considers advisable, and, where the alterations involve the alteration of an approved management plan or operating plan, the management plan or the operating plan, as the case may be, shall be deemed to be altered accordingly. R.S.O. 1960, c. 83, s. 25 (2); 1964, c. 16, s. 6.

Cutting  
operations

(3) Cutting operations in each year shall be conducted in accordance with the approved annual plan. R.S.O. 1960, c. 83, s. 25 (3).

Regeneration  
agreements

(4) The Minister may enter into an agreement with a licensee for the promotion and maintenance of the productivity of the licensed area. 1961-62, c. 27, s. 2 (2).

Preserva-  
tion of  
forests,  
etc.

**26.**—(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council, having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him. R.S.O. 1960, c. 83, s. 26 (1); 1964, c. 16, s. 7 (1).

Idem

(2) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Minister may,

- (a) limit the cutting of the timber included in any licence in respect of the size, age, quality, species, types and distribution thereof as he considers consistent with the best forestry practices;
- (b) determine the species and quantities of Crown timber that may be cut by any licensee for the manufacture of lumber, pulp, paper or other products; and
- (c) for the purpose of forest management, watershed protection, fire protection, or the preservation of beauty of landscape, game preserves or game shelters, direct the marking of trees to be left standing or to be cut in any area designated by him, and direct the licensee to pay the cost of such marking. R.S.O. 1960, c. 83, s. 26 (2); 1964, c. 16, s. 7 (2).

(3) Any action by the Lieutenant Governor in Council under subsection 1 or any action by the Minister under subsection 2 in respect of matters other than fire protection does not affect operations being carried out or to be carried out pursuant to an approved annual plan. R.S.O. 1960, c. 83, s. 26 (3). Idem

**27.** No person shall commit wasteful practices in forest operations. R.S.O. 1960, c. 83, s. 27. Wasteful practices

**28.** Every licensee shall, when required by the Minister and within the time specified, furnish to him in writing and under oath such information relating to the utilization, transformation or disposal of the timber cut on the licensed area and any products manufactured therefrom as he requires. R.S.O. 1960, c. 83, s. 28. Information to be furnished by licensee

**29.** Where a licensee contravenes any provision of sections 24 to 28 or any order of the Minister made thereunder, the Minister may suspend the operation of the licence in whole or in part for a period not exceeding six months. R.S.O. 1960, c. 83, s. 29. Non-compliance with ss. 24-28

**30.** Where a licensee contravenes any provision of sections 24 to 28 or any order of the Minister made thereunder, the Lieutenant Governor in Council may, Idem

- (a) suspend the operation of the licence in whole or in part for such period as he determines; or
- (b) cancel the licence in whole or in part. R.S.O. 1960, c. 83, s. 30.

**31.** The Minister may authorize a manual of management plan requirements prescribing the method of preparing management plans, operating plans, annual plans, and inventories, and the form thereof. 1964, c. 16, s. 8. Manual of management plan requirements authorized

## SCALERS

Boards of  
examiners,  
appoint-  
ment and  
duties

**32.**—(1) The Lieutenant Governor in Council may appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is,

- (a) to examine and report upon the ability and knowledge of persons desiring to be licensed to measure all classes of timber; and
- (b) to perform such other duties as are assigned to them by the Lieutenant Governor in Council. R.S.O. 1960, c. 83, s. 32 (1); 1966, c. 36, s. 7.

Standard  
and method  
of examina-  
tion

(2) The Minister shall determine the standard and method of examination. R.S.O. 1960, c. 83, s. 32 (2).

Oath of  
examiners

**33.**—(1) Every examiner, before entering upon his duties, shall take and subscribe an oath in the following form:

I, ....., will act as examiner of scalers to the best of my ability and knowledge, and will conduct the examination without fear, favour or affection and recommend for licences only those persons who have satisfactorily proved their fitness to discharge the duties of measuring timber. So help me God.

Transmission  
of oaths

(2) The oath shall be transmitted to the Minister. R.S.O. 1960, c. 83, s. 33.

Remunera-  
tion of  
examiners

**34.** The members of boards of examiners shall be paid such remuneration and travelling expenses as are determined by the Lieutenant Governor in Council. R.S.O. 1960, c. 83, s. 34.

Examina-  
tions

**35.**—(1) Every board of examiners shall sit at such places and on such days as are determined by the Minister, and shall examine all candidates who present themselves, and at the close of the examination, or as soon after as may be, shall transmit to the Minister the names of such of the candidates as they believe are trustworthy and of good character and who on examination have satisfactorily proved their fitness to discharge the duties of measuring all classes of timber or of measuring pulpwood and whom they recommend as having the requisite skill and knowledge to warrant their being licensed as scalers.

Examina-  
tion fee

(2) The Minister may determine the amount of the examination fee to be paid by candidates. R.S.O. 1960, c. 83, s. 35.

Scalers'  
licences

**36.**—(1) The Minister may issue a scaler's licence to any person who has been recommended by a board of examiners and who has taken the oath prescribed by section 38. 1966, c. 36, s. 8.

Term

(2) Every scaler's licence expires with the 31st day of March of the third year after the 31st day of March that preceded the date of issue. 1964, c. 16, s. 9 (1).

(3) A scaler's licence may, upon application to the Minister, be renewed from time to time either before or after the expiration thereof or of the last renewal, and every renewal expires with the 31st day of March of the third year after the 31st day of March that preceded the date of issue, but, where a licence has not been renewed within three years after its expiration or after the expiration of the last renewal, it shall not be further renewed. R.S.O. 1960, c. 83, s. 36 (3); 1964, c. 16, s. 9 (2). Renewal

**37.** Where a licensed scaler is not available, the Minister may issue a special permit to anyone whose trustworthiness and skill have been established by the affidavits of two responsible persons. R.S.O. 1960, c. 83, s. 37. Special permits

**38.**—(1) Before a scaler's licence or special permit is issued, the applicant shall take an oath in the following form: Scaler's oath

I, \_\_\_\_\_, while acting as a licensed scaler (*or as holder of a special permit*), without fear, favour or affection, and to the best of my judgment and skill, will measure correctly in accordance with the authorized manual of scaling instructions all Crown timber that I am employed to measure, and make true return of the same to the Department of Lands and Forests or its officer or agent. So help me God.

(2) The oath shall be transmitted to the Minister. R.S.O. 1960, c. 83, s. 38. Transmission of oaths

**39.** The Minister may authorize a manual of scaling instructions prescribing the method of measuring Crown timber. R.S.O. 1960, c. 83, s. 39. Manual of scaling instructions authorized

**40.**—(1) It is the duty of every licensed scaler or holder of a special permit to measure in accordance with the authorized manual of scaling instructions all Crown timber that he is employed to measure, making only such deductions as are authorized by the manual, and to enter in a book of record, for the purpose of a return to the Department, the contents of the timber or pulpwood measured by him and the number of logs rejected as culls. Duties of scalers

(2) It is the duty of every licensed scaler or holder of a special permit to stamp upon every cull the word "cull". Idem

**41.** All Crown timber shall be measured by a licensed scaler or a holder of a special permit at the place of cutting or at a concentration point adjacent to the place of cutting, and no Crown timber shall be manufactured or removed from the place of cutting or from the concentration point before being so measured, without the written authority of the Minister. R.S.O. 1960, c. 83, s. 41. Where timber to be measured



Measure-  
ment of  
pulpwood

**42.**—(1) Pulpwood cut in lengths of more than eight feet shall be measured in cubic feet of solid wood and not in stacked cords.

Idem

(2) Pulpwood cut in lengths of eight feet or less may be measured in cubic feet of solid wood or in stacked cords, as the Minister directs.

Idem

(3) Where a licensee is required or permitted to measure pulpwood in cubic feet of solid wood he is entitled to convert 85 cubic feet of solid wood into 128 cubic feet of stacked wood. R.S.O. 1960, c. 83, s. 42.

Inspection  
of scalers'  
books

**43.** Every licensed scaler and every holder of a special permit shall submit his books and records of measurements of Crown timber for the inspection of any officer or agent when called upon so to do, and shall furnish all information and statements or copies of statements that the Minister or any officer or agent requires. R.S.O. 1960, c. 83, s. 43.

Suspension  
and cancel-  
lation of  
scalers'  
licences and  
permits

**44.** The Minister may suspend or cancel the licence or special permit of any scaler who undermeasures or mismeasures or improperly culls any Crown timber, or makes a false return, or fails to make a return when required. R.S.O. 1960, c. 83, s. 44.

#### LICENSING OF MILLS

Licence  
required

**45.**—(1) No person shall construct, reconstruct or operate a mill, or increase the productive capacity of a mill, or convert an existing mill into a mill of any other type, without a licence from the Minister. R.S.O. 1960, c. 83, s. 45 (1); 1964, c. 16, s. 10 (1).

Condition  
precedent  
to grant  
of licence

(2) A licence under subsection 1 shall not be granted unless the applicant has, in the opinion of the Minister, a sufficient supply of logs or wood-bolts. 1964, c. 16, s. 10 (2).

Effect of  
licence

(3) The granting of a licence under subsection 1 does not imply any obligation on the part of the Minister to make Crown timber available for the mill. 1968, c. 24, s. 4.

#### PENALTIES

Penalties

**46.**—(1) Every person who,

- (a) commences cutting operations without the approval of the Minister under section 13, or carries on cutting operations beyond the limits of the area approved by the Minister under section 13, is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber so cut and not more than five times the amount of such charges;
- (b) contravenes subsection 1 of section 14 or any order or direction made under section 26 or any regulation made under clause *h* of section 51 is liable to a penalty of an amount not less than the amount of the stumpage

charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges;

- (c) except under a licence, cuts or employs or induces or assists any other person to cut Crown timber or removes or employs or induces or assists any other person to remove Crown timber is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges;
- (d) contravenes section 41 is liable to a penalty of an amount not less than twice the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges;
- (e) contravenes section 17 is liable to a penalty of not less than \$50 and not more than \$5,000;
- (f) when in possession or control of any timber or any product manufactured therefrom, upon request refuses or fails to inform any officer or agent of the name and address of the person from whom the timber or product was received or of any fact within his knowledge respecting the timber, is liable to a penalty of not less than \$10 and not more than \$500;
- (g) interferes with any officer or agent who seizes timber under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (h) removes or attempts to remove or interferes or attempts to interfere with any timber or any product manufactured therefrom after it has been seized under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (i) makes or avails himself of any false statement or oath with respect to any matter under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (j) contravenes section 45 or any regulation made under clause *m* or *o* of section 51, is liable to a penalty of not less than \$25 and not more than \$1,000 for the first contravention and to a penalty of not less than \$50 and not more than \$5,000 for each subsequent contravention. R.S.O. 1960, c. 83, s. 47 (1); 1964, c. 16, s. 12; 1966, c. 36, s. 9.

(2) Where in the opinion of the Minister a person is liable to a <sup>Demand for</sup> penalty under subsection 1, he may give notice to the person by <sup>penalty</sup> registered mail,

- (a) setting out the facts and circumstances that in his opinion render the person liable to a penalty;
- (b) requiring the person to pay such penalty as he considers proper in the circumstances; and
- (c) specifying the time within which the penalty shall be paid.

Right of  
action

(3) If a person fails to pay a penalty in accordance with a notice under subsection 2, the Minister may bring an action for the recovery of the penalty in a court of competent jurisdiction, and in such action it is the duty of the court,

- (a) to determine whether such person is liable to a penalty under subsection 1; and
- (b) if it is determined that the person is liable to a penalty, to confirm or vary the amount thereof claimed by the Minister; and
- (c) to give such judgment as it considers proper; and
- (d) to make such order as to costs or otherwise as it considers proper. R.S.O. 1960, c. 83, s. 47 (2, 3).

#### GENERAL

Powers con-  
ferred on  
Deputy  
Minister,  
officers, etc.

**47.** The Minister by instrument in writing may authorize the Deputy Minister of Lands and Forests or any officer or agent to exercise such of the powers conferred by this Act upon him as may in his opinion properly be exercised by the Deputy Minister or such officer or agent. R.S.O. 1960, c. 83, s. 48.

Acts of  
Minister  
deemed  
adminis-  
trative

**48.** Every thing done by the Minister under the authority of this Act shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1960, c. 83, s. 49.

Regulations  
re Crown  
dues

**49.—(1)** Notwithstanding anything in this Act or any general or special Act or in any order in council or regulation or in any agreement or licence made or granted under any of them, the Lieutenant Governor in Council may make regulations increasing or decreasing the Crown dues payable in respect of any kind or class of timber or increasing or decreasing the annual forest protection charge or management charge payable in respect of licensed areas, and any such regulation shall be made to take effect on the 1st day of April immediately preceding or at such subsequent time as is specified in the regulation. 1966, c. 36, s. 10; 1968, c. 24, s. 5.

Price to  
include  
Crown  
dues

(2) Where by the terms of a licence a price is fixed for any kind or class of timber and such price is stated to be inclusive of Crown dues or a price is fixed without reference to Crown dues, such price shall be deemed to be increased or decreased from time to time, as the case may be, by the amount whereby Crown dues are increased or decreased under subsection 1. R.S.O. 1960, c. 83, s. 50 (2).

**50.**—(1) Every licence granted under a predecessor of this Act and subsisting when this Act comes into force shall, subject to subsection 2, continue in force in accordance with the terms of the licence. Existing  
licences  
and permits

(2) This Act and the regulations apply to every licence heretofore or hereafter granted and, where there is any conflict between this Act or the regulations and any licence, this Act and the regulations govern. Application  
of Act and  
regulations R.S.O. 1960, c. 83, s. 51.

#### REGULATIONS

**51.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the terms and conditions that shall apply to licences, other than those granted under subsection 8 of section 2 or section 5;
- (b) prescribing terms and conditions, in addition to those prescribed under clause *a*, that shall apply to licences to cut Crown timber in a provincial park;
- (c) fixing the amounts of forest protection charge, management charge and other charges to be paid in respect of licensed areas;
- (d) fixing the Crown dues to be paid in respect of each species of timber, other than damaged timber, cut under licence;
- (e) fixing the times at which Crown charges are payable and the rate of interest to be charged on overdue accounts;
- (f) fixing the fees to be paid on the transfer of a licence;
- (g) prescribing the manner in which a seizure of timber may be effected under section 20;
- (h) fixing the minimum size of any species of trees that may be cut under licence;
- (i) defining wasteful practices in forest operations and prescribing the penalties that may be imposed for contravention of any such regulation;
- (j) classifying mills and providing for the issue of licences therefor;
- (k) prescribing the form of mill licences and the fees to be paid therefor;
- (l) prescribing the term of mill licences and providing for the transfer, renewal, suspension and cancellation thereof;
- (m) imposing conditions as to the location of mills, the mechanical efficiency thereof and operating methods of mill licensees, including the disposal of waste or refuse;



- (n) providing for the periodical inspection of mills;
- (o) prescribing the returns that mill licensees shall make to the Minister as to their mills and operations, including the sources, species, quantities and disposition of materials processed;
- (p) prescribing the form of scalers' licences, special permits and renewals and the fees payable in respect thereof;
- (q) prescribing penalties for the contravention of any provision of this Act or the regulations where no penalty has been fixed by this Act;
- (r) governing the cutting of timber before the issue of a patent by a purchaser or locatee of lands for agricultural purposes under *The Public Lands Act* and prescribing the extent to which and the conditions under which such cutting may be carried on;
- (s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 83, s. 52; 1968, c. 24, s. 6.

R.S.O. 1970,  
c. 380

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## CHAPTER 103

### The Crown Witnesses Act

**1.** In this Act, “trial” means a trial at a sittings of the Supreme Court, a court of general sessions of the peace, a county or district court judges’ criminal court, or a provincial court for the summary trial of indictable offences under the *Criminal Code* (Canada), and includes a preliminary inquiry and proceedings before a grand jury. R.S.O. 1960, c. 84, s. 1, *amended*.

Interpre-  
tation

1953-54,  
c. 51 (Can.)

**2.**—(1) The Crown attorney may grant to a person who attends at the instance of the Crown to give evidence at a trial an order for the payment of such sum as witness fees and allowances as he considers proper, but, subject to section 3, not more than is provided for in the Schedule.

Fees, etc.

(2) The Crown attorney, with the approval of the presiding judge, may include in an order such sum, in addition to the witness fees and allowances, as he considers reasonable and sufficient to compensate the witness for doing any work in preparation for the trial or preparing any document or article for use at the trial. R.S.O. 1960, c. 84, s. 2, *amended*.

Additional  
compen-  
sation

**3.** The Director of Public Prosecutions may increase the sum ordered to be paid so that the witness will be reasonably compensated for his attendance at the trial and he may order that a special fee be paid to an expert witness. R.S.O. 1960, c. 84, s. 3; 1968, c. 25, s. 1.

Special fee

**4.** Where a bill of indictment has not been preferred or where a trial has not been proceeded with, sections 2 and 3 apply, if in the opinion of the Crown attorney a person attended the court in obedience to a recognizance or subpoena or at the instance of the Crown. R.S.O. 1960, c. 84, s. 4.

Where no  
indictment  
preferred or  
trial had

**5.** The fees and allowances authorized by this Act shall be paid out of the moneys appropriated by the Legislature for the administration of justice. R.S.O. 1960, c. 84, s. 9; 1968, c. 25, s. 3.

Moneys

**6.** In the case of an information, action or other legal proceeding by or on behalf of the Crown, for the prosecution of rights, claims or demands of Her Majesty against any person for the use of Ontario, or for the recovery of the possession of any land, deeds or personal property to which Her Majesty claims to be entitled

Witness  
fees, etc.,  
payable on  
prosecution  
of claims  
etc., by Her  
Majesty

for the use of Ontario, the witnesses are entitled to be paid the like witness fees and allowances as are payable in actions between subject and subject. R.S.O. 1960, c. 84, s. 11.

Where  
evidence  
taken by  
commission

**7.** Where a commission has issued to take the evidence of a witness, the fees and expenses incurred in and by the issue of the commission and taking of the evidence shall be paid in the same manner as witness fees. R.S.O. 1960, c. 84, s. 12.

Fees, etc.,  
not payable  
in advance

**8.** A witness is not entitled to require payment of any witness fee or allowance under this Act before the determination by adjournment or otherwise of the trial at which he attends as a witness. R.S.O. 1960, c. 84, s. 13.

## SCHEDULE

(Section 2 (1))

### WITNESS FEES AND ALLOWANCES

1. Attending trial, each day . . . . . \$ 6
 

Barristers, solicitors, physicians and surgeons when called upon to give evidence in consequence of any professional service rendered by them or to give professional opinions, each day . . . . . 15

Engineers, accountants, surveyors and architects when called upon to give evidence in consequence of any professional service rendered by them or to give evidence depending upon their skill or judgment, each day . . . . . 15
2. Where a witness travels by private automobile, 10 cents a mile each way for each mile necessarily travelled between his place of residence and the place of trial, but, where the trial is held in the city or town in which the witness resides, 75 cents.
 

The distance travelled shall be ascertained by the certificate of the Crown attorney.
3. Where a witness travels by a means other than private automobile, a sum equal to the amount of the fare actually paid for the transportation from his place of residence to the place where the trial is held, and return.
4. Where a witness is required to attend the trial on more than one day and returns to his place of residence at night, the travelling allowance mentioned in item 2 or 3, as the case may be, is payable in respect of each day's attendance.
5. Where a witness resides elsewhere and in the opinion of the Crown attorney it is desirable that he remain overnight at the place at which the trial is held, a sum equal to the amount reasonably and actually paid by him for living expenses, but not more than \$8 for each night.

## CHAPTER 104

**The Day Nurseries Act****1. In this Act,**Interpre-  
tation

- (a) “band” and “council of the band” have the same meaning as in the *Indian Act* (Canada); R.S.C. 1952,  
c. 149
- (b) “Board” means the Board of Review established under section 7;
- (c) “day nursery” means a place that receives for temporary custody for a continuous period not exceeding twenty-four hours more than three children under ten years of age not of common parentage and that is not,
  - (i) part of a public school under *The Public Schools Act*, R.S.O. 1970,  
c. 385
  - (ii) part of a separate school under *The Separate Schools Act*, R.S.O. 1970,  
c. 430
  - (iii) part of a private school registered under *The Department of Education Act*, or R.S.O. 1970,  
c. 111
  - (iv) a children’s mental health centre under *The Children’s Mental Health Centres Act*; R.S.O. 1970,  
c. 68
- (d) “Director” means the Director of the Day Nurseries Branch of the Department of Social and Family Services;
- (e) “licensed day nursery” means a day nursery licensed under this Act;
- (f) “Minister” means the Minister of Social and Family Services;
- (g) “municipality” means a city, town, village, township or county and includes a metropolitan municipality, but does not include a local municipality in a metropolitan municipality;
- (h) “operator” means a person or a partnership or association of persons that has the control and management of a day nursery, and “operate” has a corresponding meaning;
- (i) “regulations” means the regulations made under this Act. 1966, c. 37, s. 1; 1968-69, c. 23, s. 1.



Establish-  
ment of day  
nurseries  
by muni-  
cipalities  
By-laws  
re grants

**2.**—(1) The council of a municipality may by by-law provide for the establishment of day nurseries.

(2) The council of a municipality may pass by-laws granting aid to day nurseries.

Agreements  
to provide  
day  
nurseries

(3) The council of a municipality may enter into an agreement with any person or organization operating a licensed day nursery for the furnishing of such day nursery services for such children as is agreed upon, and the municipality may make such expenditures as are necessary for the purpose.

Establish-  
ment by  
Minister

(4) The Minister with the approval of the Lieutenant Governor in Council may establish day nurseries in areas without municipal organization. 1966, c. 37, s. 2.

Grants

**3.**—(1) There shall be paid to every municipality an amount equal to 80 per cent of its costs, computed in accordance with the regulations,

(a) for the operation and maintenance or the renovation of every licensed day nursery established by the municipality; and

(b) under agreements entered into under subsection 3 of section 2. 1966, c. 37, s. 3 (1).

Grants to  
Indian bands

(2) Where a council of a band establishes a day nursery, or enters into an agreement with any person or organization operating a licensed day nursery for the furnishing of such day nursery services for such children as is agreed upon, the band is entitled to the payments referred to in subsection 1 in the same manner as if the band were a municipality. 1968-69, c. 23, s. 2; 1970, c. 88, s. 1.

Director  
of day  
nurseries

**4.**—(1) There shall be a Director of the Day Nurseries Branch of the Department of Social and Family Services who shall perform the duties vested in him by this or any other Act. 1966, c. 37, s. 4 (1); 1968-69, c. 23, s. 3 (1).

Vacancies

(2) Where the Director is absent or there is a vacancy in his office, the powers and duties of the Director may be exercised and performed by such employee of the Department of Social and Family Services as the Minister may designate. 1966, c. 37, s. 4 (2); 1968-69, c. 23, s. 3 (2).

Licences

**5.** No person shall operate a day nursery without a licence therefor issued by the Director in accordance with the regulations, and the licence may be subject to terms and conditions. 1966, c. 37, s. 5 (1).

**6.** Subject to sections 7, 8, 9, 10, 11, 12, 13 and 14, the Director may revoke or refuse to issue or renew a licence where, Refusal or revocation of licence

- (a) the operator does not comply with the regulations; or
- (b) the day nursery is operated,
  - (i) in contravention of this Act or the regulations,
  - (ii) in breach of a term or condition of the licence, or
  - (iii) in a manner that, in the opinion of the Director, is contrary to the best interests of the public or of the children. 1968-69, c. 23, s. 5, *part.*

**7.—**(1) The Lieutenant Governor in Council may appoint a board, consisting of not more than five members, to be known as the Board of Review and may designate one member of the Board as chairman. Board of Review

(2) Three members of the Board constitute a quorum. Quorum

(3) The members of the Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine. 1968-69, c. 23, s. 5, *part.* Remuneration

**8.—**(1) Where the Director refuses to issue or renew or proposes to revoke a licence, he shall give notice thereof to the applicant or licensee, together with written reasons for his refusal or proposed revocation and a notice stating the right to a hearing by the Board, and the applicant or licensee may, by written notice given to the Director and the Board within fifteen days after the receipt of the notice of refusal or proposed revocation, require a hearing by the Board. Where Director refuses to issue or renew or proposes to revoke

(2) The Board shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed. Hearing by Board

(3) The notice of hearing shall contain, Contents of notice

- (a) a statement of the time and place of the hearing;
- (b) a reference to the rules of procedure applicable to the hearing; and
- (c) a statement that, if a party who has been duly notified does not attend at the hearing, the Board may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 23, s. 5, *part.*

**9.—**(1) The Director, the applicant or licensee and any other person specified by the Board are parties to the hearing. Parties

(2) If a person who has been duly notified of a hearing does not attend, the Board may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 23, s. 5, *part.* Failure to attend

Adjourn-  
ment

**10.**—(1) A hearing may be adjourned from time to time by the Board on reasonable grounds,

- (a) on its own motion; or
- (b) on the motion of any party to the hearing.

Subpoena

(2) The Board may command the attendance before it of any person as a witness.

Oaths

(3) The Board may require any person,

- (a) to give evidence on oath at a hearing; and
- (b) to produce such documents and things as the Board requires.

Idem

(4) The Board may admit evidence not given under oath.

Evidence

(5) At a hearing before the Board,

- (a) except where otherwise provided in this subsection, the common law and statutory rules of evidence apply;
- (b) evidence not admissible under clause *a* may be admitted by the Board in its discretion if to do so may expedite the hearing and will not prejudice any party; and
- (c) the Board may admit evidence in the form of a copy or an excerpt of a document if the document itself is not readily available.

Offences

(6) Any person who, without lawful excuse,

- (a) on being duly summoned as a witness before the Board, makes default in attending; or
- (b) being in attendance as a witness before the Board, refuses to take an oath legally required by the Board to be taken, or to produce any document or thing in his power or control legally required by the Board to be produced by him, or to answer any question to which the Board may legally require an answer; or
- (c) does any other thing that would, if the Board had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence. 1968-69, c. 23, s. 5, *part*.

Enforce-  
ment

(7) The Board may certify an offence under subsection 6 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1968-69, c. 23, s. 5, *part*.

**11.**—(1) Any party may be represented before the Board by counsel or agent. Right of party to counsel

(2) Any witness may be represented before the Board by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law. Right of witness to counsel

(3) Any party who is present at a hearing before the Board may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions. 1968-69, c. 23, s. 5, *part.* Rights of parties at hearing

**12.** Upon a review, the Board shall hear such evidence as is submitted to it that in its opinion is relevant to the matter in dispute, and all oral evidence submitted shall be taken down in writing. 1968-69, c. 23, s. 5, *part.* Evidence

**13.**—(1) The Board may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act the Director is authorized to do under this Act and as the Board considers proper, and for this purpose the Board may substitute its opinion for that of the Director. Powers of Board

(2) The decision of the Board, including the reasons therefor, shall be in writing. Decision to be in writing

(3) The reasons for the decision shall contain, Contents of reasons for decision

- (a) the findings of fact on the evidence and any information or knowledge used in reaching the decision;
- (b) any agreed findings of fact; and
- (c) the conclusions of law based on the findings mentioned in clauses *a* and *b*.

(4) The Board shall serve each party with a copy of its decision, together with the reasons therefor and a notice stating the right to an appeal under section 14. 1968-69, c. 23, s. 5, *part.* Notice of decision

**14.**—(1) Where the Board has held a hearing and given its decision, any party to the hearing may appeal to a justice of appeal of the Court of Appeal. Appeal

(2) Every appeal under subsection 1 shall be by notice of motion served upon the chairman of the Board within thirty days after service of the decision of the Board under subsection 4 of section 13 and the practice and procedure in relation to the appeal shall be the same as on an appeal from a judgment of a judge of the Supreme Court in an action. Form of appeal

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court, Material on appeal

- (a) the notices referred to in subsections 1 and 2 of section 8;



- (b) the decision of the Board together with the reasons therefor;
- (c) any intermediate rulings or orders made in the course of the proceedings by the Board;
- (d) a transcript of the oral evidence received at the hearing; and
- (e) all written submissions to the Board and other material including documentary evidence received by it in connection with the hearing.

Power of  
judge on  
appeal

(4) Where an appeal is taken under this section, the judge may confirm or alter the decision of the Board or direct the Director to do any act the Director is authorized to do under this Act and as the judge considers proper, and for this purpose the judge may substitute his opinion for that of the Board. 1968-69, c. 23, s. 5, *part*.

Provincial  
supervisors

**15.**—(1) The Minister may designate any employee of the Department of Social and Family Services as a provincial supervisor who may at all reasonable times and upon producing proper identification enter any day nursery or any premises that he on reasonable and probable grounds believes is being used as a day nursery and inspect the facilities and the books of account, enrolment records and other records therein.

Access for  
inspections

(2) Every person when requested so to do by a provincial supervisor shall permit the entry and inspection by the supervisor of the premises referred to in subsection 1 and shall produce and permit inspection of the books of account, enrolment records and other records therein and supply extracts therefrom. 1968-69, c. 23, s. 6.

Obstructing  
inspection

(3) No person shall hinder or obstruct a provincial supervisor in the performance of his duties or refuse to permit him to carry other records therein and supply extracts therefrom. 1968-69, c. 23, s. 6.

Regulations

**16.** The Lieutenant Governor in Council may make regulations,

- (a) governing and regulating day nurseries or any class thereof;
- (b) prescribing procedures for the issuance and renewal of licences by the Director;
- (c) prescribing the fee payable by an applicant for a licence or renewal of a licence;
- (d) prescribing the manner of computing costs for the purposes of section 3;

- (e) prescribing additional duties of the Board;
- (f) prescribing the forms to be used and the records that shall be kept under this Act;
- (g) prescribing additional duties of the Director;
- (h) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 37, s. 7; 1968-69, c. 23, s. 7.

**17.**—(1) Every person who contravenes section 5 is guilty of <sup>Penalties</sup> an offence and on summary conviction is liable to a fine of not more than \$20 for each day on which such offence continues. 1966, c. 37, s. 8 (1); 1968-69, c. 23, s. 8.

(2) Every person who contravenes section 15 is guilty of an <sup>Idem</sup> offence and on summary conviction is liable to a fine of not more than \$500. 1966, c. 37, s. 8 (2).

**18.** The moneys required for the purposes of subsection 4 of <sup>Moneys</sup> section 2 and section 3 shall be paid out of the moneys appropriated therefor by the Legislature. 1966, c. 37, s. 9.

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## CHAPTER 105

## The Dead Animal Disposal Act

**1.** In this Act,Interpre-  
tation

- (a) “collector” means a person engaged in the business of collecting dead animals and fallen animals;
- (b) “dead animal” means a horse, goat, sheep, swine or head of cattle that has died from any cause other than slaughter;
- (c) “Director” means the Director of the Veterinary Services Branch of the Department of Agriculture and Food;
- (d) “fallen animal” means a horse, goat, sheep, swine or head of cattle that has been disabled by disease, emaciation or other condition that is likely to cause death;
- (e) “inspector” means an inspector appointed under this Act;
- (f) “Minister” means the Minister of Agriculture and Food;
- (g) “receiving plant” means a premises to which dead animals are delivered for the purpose of obtaining the hide, skin, fats, meat or other product of the dead animals or for the purpose of selling or delivering the dead animals or parts thereof to a rendering plant;
- (h) “rendering plant” means a premises at which dead animals are processed into hides, meat, bone meal, meat meal or inedible fats;
- (i) “slaughter” means slaughter for the purpose of processing into food for human consumption. R.S.O. 1960, c. 88, s. 1; 1965, c. 25, s. 1, *amended*.

**2.** This Act does not apply to,

Application

- (a) establishments operating under the *Meat Inspection Act* <sup>1955,</sup> (Canada); and c. 36 (Can.)
- (b) dead animals or carcasses thereof while held for post mortem examination, investigation, loss adjustment or other purpose. R.S.O. 1960, c. 88, s. 2.



Responsi-  
bility of  
owner

**3.**—(1) The owner of a dead animal or carcass or part thereof shall dispose of it within forty-eight hours of its death,

- (a) by burying it with a covering of at least two feet of earth; or
- (b) by the services of a person licensed under this Act and the regulations.

Fallen  
animals

(2) The owner of a fallen animal shall kill it in a humane manner and dispose of it in accordance with subsection 1. R.S.O. 1960, c. 88, s. 3.

Idem

(3) No person shall move a fallen animal before it has been killed. 1961-62, c. 28, s. 1.

Slaughter  
prohibited

**4.**—(1) No person shall slaughter an animal at a receiving plant or a rendering plant.

Collector

(2) No collector shall give, sell or deliver a dead animal to any person other than the holder of a licence under this Act. R.S.O. 1960, c. 88, s. 4 (1, 2).

Processing,  
selling  
or storing  
meats

(3) No person shall process, store, offer for sale or sell meat or products made therefrom for human consumption at a receiving plant or a rendering plant. R.S.O. 1960, c. 88, s. 4 (3); 1961-62, c. 28, s. 2.

Licensing

**5.**—(1) No person shall engage in the business of a collector or operator of a receiving plant or operator of a rendering plant without a licence therefor from the Director. R.S.O. 1960, c. 88, s. 5; 1965, c. 25, s. 2 (1).

Refusal to  
issue licence

(2) The Director may, after a hearing, refuse to issue a licence under subsection 1 for any reason that he considers proper. 1961-62, c. 28, s. 3, *part*; 1965, c. 25, s. 2 (2).

Appeal

(3) Any person to whom the Director has refused to issue a licence under subsection 2 may appeal the decision of the Director to the Minister, and the Minister may confirm the decision or order the licence to be issued. 1961-62, c. 28, s. 3, *part*; 1965, c. 25, s. 2 (3).

Conditions  
of licence

**6.** Every licence is subject to the conditions that the holder of the licence,

- (a) maintains in good mechanical and sanitary condition all vehicles, premises and equipment used in the collecting and handling of dead animals and the disposing of the carcasses and parts thereof;
- (b) carries on his business in a manner that prevents any relationship between the ownership, management or operation of his business and any business in respect of the slaughtering of animals or the processing or sale of meat for human consumption;

- (c) takes all reasonable precautions to prevent the spread of any disease that caused the deaths of the animals; and
- (d) complies with this Act and the regulations and any other conditions that are imposed by the regulations. R.S.O. 1960, c. 88, s. 6; 1961-62, c. 28, s. 4.

**7.**—(1) A collector shall make and keep for at least twelve months a record of the dead animals he collects and the disposal thereof as prescribed in the regulations. Records

(2) An operator of a receiving plant shall make and keep for at least twelve months a record of the dead animals he receives and of the disposal thereof as prescribed in the regulations. Idem

(3) An operator of a rendering plant shall make and keep for at least twelve months a record of the dead animals he receives at the plant as prescribed in the regulations. R.S.O. 1960, c. 88, s. 7. Idem

**8.**—(1) The Minister may appoint a chief inspector and one or more inspectors to carry out and enforce this Act and the regulations. Inspectors

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister. R.S.O. 1960, c. 88, s. 8 (1, 2). Certificate of appointment

(3) The Director or an inspector may enter any premises or building for the purpose of carrying out his duties. R.S.O. 1960, c. 88, s. 8 (3); 1965, c. 25, s. 3. Powers

**9.** No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information, or refuse to furnish him with information. R.S.O. 1960, c. 88, s. 9. Obstruction of inspector

**10.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months. 1961-62, c. 28, s. 5. Offences

**11.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences and prescribing the fees payable for licences or the renewal thereof;
- (b) prescribing conditions for licensing in addition to those mentioned in section 6;

- (c) prescribing the duties of inspectors;
  - (d) prescribing the manner in which vehicles and premises used in the collecting and handling of dead animals shall be cleaned, disinfected and maintained;
  - (e) respecting the transportation of dead animals and the products obtained therefrom;
  - (f) providing for the processing at a receiving plant or a rendering plant of meat obtained from dead animals and for the treatment of the meat for purposes of identification;
  - (g) providing for the exemption from the regulations, or any part thereof, of any person or group of persons or any class or classes of meat;
  - (h) respecting the facilities and equipment to be provided and maintained at receiving plants and rendering plants;
  - (i) respecting advertising by persons licensed under this Act;
  - (j) providing for the labelling of products obtained from dead animals or parts thereof;
  - (k) providing for the disposition of dead animals or any class of them and any parts thereof;
  - (l) prescribing the records to be made and kept by collectors and by operators of receiving plants and rendering plants;
  - (m) prescribing forms and providing for their use;
  - (n) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 88, s. 11; 1961-62, c. 28, s. 6.
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## CHAPTER 106

**The Debt Collectors Act**

1. Every person, whether principal or agent, who prints or publishes a notice or form that is an imitation or a colourable imitation of any of the forms appended to *The Small Claims Courts Act*, or of other legal process, and that is calculated to deceive the public by inducing the belief that such notice or form is a notice or form from a court, or is part of the process of a court, or who issues or makes use of such a notice or form in connection with a collection agency or otherwise, is guilty of an offence and on summary conviction is liable to a fine of not more than \$20. R.S.O. 1960, c. 89, s. 1.

Penalty for  
issuing  
imitations  
of small  
claims court  
notices  
R.S.O. 1970,  
c. 439

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CHAPTER 107

The Dental Technicians Act

1. In this Act,

(a) “Board” means the Governing Board of Dental Technicians;

(b) “dental technician” means a person who upon the prescriptions or orders of legally qualified dentists or physicians makes, produces, reproduces, constructs, furnishes supplies, alters or repairs any prosthetic denture, bridge, appliance or thing to be used in, upon or in connection with a human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof;

(c) “register” means the register under this Act. R.S.O. 1960, c. 90, s. 1.

Interpretation
- 2.—(1) The board of governors known as the Governing Board of Dental Technicians established under *The Dental Technicians Act, 1946* is continued and shall be composed of five persons appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 90, s. 2 (1).

Board 1946, c. 18
- (2) The Board is hereby constituted a corporation and the Board may, for its purposes, purchase, acquire, hold, mortgage, lease and dispose of real and personal property. 1962-63, c. 31, s. 1.

Board a corporation
- (3) Every member of the Board shall hold office for a period of two years, but any member is eligible for reappointment at the expiration of his term of office.

Term of office
- (4) Every vacancy on the Board caused by the death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

Vacancies
- (5) The chairman, the vice-chairman and the secretary-treasurer of the Board shall be elected by the Board from time to time from among its members. R.S.O. 1960, c. 90, s. 2 (2-4).

Officers
- (6) In addition to the five members of the Board mentioned in subsection 1, the immediate past chairman of the Board is a member *ex officio* of the Board for a period of one year immediately following his term of office as chairman. 1960-61, c. 17, s. 1.

Member ex officio

## Regulations

**3.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) providing for the admission of dental technicians to carry on business in Ontario and for the registration of all persons so admitted, including the fees payable for registration;
- (b) prescribing the qualifications of persons so to be admitted and the proofs to be furnished as to education and good character;
- (c) providing for the examination of applicants for registration and prescribing the fees payable for such examination;
- (d) providing for the establishment of a committee of examiners to conduct examinations and prescribing the fees payable to examiners;
- (e) providing for maintaining a register of persons so admitted to carry on business and providing for the annual renewal of registration and prescribing the fees payable thereon;
- (f) prescribing the discipline and control of registered technicians, including the adoption and enforcement of reasonable canons of ethics;
- (g) providing for the investigation of any complaint that a dental technician has been guilty of misconduct or displayed such incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (h) providing for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or to have been incompetent, and, in addition to or as an alternative for such cancellation or suspension, providing for the assessment against and the recovery from any such dental technician of the expense, or part of the expense, incurred by the Board in the investigation and hearing conducted by the Board with respect to such misconduct or incompetence;
- (i) defining “misconduct” for the purpose of this section and the regulations;
- (j) providing for the payment of reasonable fees and disbursements to members of the Board in respect to the discharge of the duties of the Board;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 90, s. 3 (1); 1960-61, c. 17, s. 2; 1962-63, c. 31, s. 2.

(2) All regulations made by the Board shall be submitted in writing to The Royal College of Dental Surgeons of Ontario not less than thirty days before being submitted to the Lieutenant Governor in Council for approval, and any submissions on the part of the College with respect to any such regulations shall be presented to the Lieutenant Governor in Council with the application for approval of the regulations. R.S.O. 1960, c. 90, s. 3 (2). Submission to College

**4.**—(1) A person registered under this Act has the right to use the designation “Registered Dental Technician” or the letters “R.D.T.” and may describe his business as a dental laboratory. R.S.O. 1960, c. 90, s. 4 (1); 1960-61, c. 17, s. 3. Designation:

(2) A person is not entitled to use the designation “Dental Technician” or “Registered Dental Technician” or any other name, title, initials or description implying that he is a dental technician unless he is registered under this Act. R.S.O. 1960, c. 90, s. 4 (2). use of, prohibited

**5.** Nothing in this Act or the regulations applies to or affects the practice of any profession or calling by any person practising the profession or engaged in the calling under the authority of any general or special Act of the Legislature. R.S.O. 1960, c. 90, s. 5. Right to practise profession

**6.**—(1) In this section, “dentists in association” means dentists practising together in the same suite of offices in the same building and sharing the expenses of their practices. Interpretation

(2) Nothing in this Act or the regulations shall be deemed to prohibit, When un-registered persons not affected

- (a) a dentist within the meaning of *The Dentistry Act*; R.S.O. 1970, c. 108
- (b) a physician within the meaning of *The Medical Act*; R.S.O. 1970, c. 268
- (c) a hospital dispensary, university or municipal clinic acting upon the prescription or order of a legally qualified dentist or physician;
- (d) apprenticed dental technicians and other persons working as employees of a registered dental technician; or
- (e) a person who is not a dental technician and who is a full-time employee of one dentist or of not more than three dentists in association where no dental laboratory services are furnished by the dentist or dentists in association or the employee,

from performing work or services ordinarily performed by a dental technician. 1960-61, c. 17, s. 4 (1).



Application  
of cl. *e*  
of subsection  
2

(3) Clause *e* of subsection 2 does not apply to any person who was employed as a dental technician in a lawful manner on the 1st day of July, 1961 so long as he remains in such employment. 1960-61, c. 17, s. 4 (2), *amended*.

Corporations

- 7.**—(1) No corporation shall operate a dental laboratory,
- (a) unless the majority of the directors are registered dental technicians;
  - (b) unless a majority of each class of shares of the corporation is owned by and registered in the names of registered dental technicians; and
  - (c) unless a registered dental technician is at all times in charge of the actual operations of the laboratory.

Offences

(2) Every registered dental technician on the board of directors of a corporation that operates a dental laboratory and the registered dental technician in charge of the actual operations of the laboratory shall be deemed guilty of any contravention of this Act by the corporation. 1960-61, c. 17, s. 5.

R.S.O. 1970,  
c. 108  
to apply

**8.** Nothing in this Act or the regulations limits, alters or affects the application of any provision of *The Dentistry Act* or of any by-law made thereunder. R.S.O. 1960, c. 90, s. 8.

Offences

**9.** Every person who, not being registered under this Act, carries on business or holds himself out as carrying on business as a dental technician, or who advertises or uses or affixes any prefix or suffix to his name signifying that he is carrying on business as a dental technician or that he is qualified to carry on business as a dental technician, is guilty of an offence and on summary conviction is liable to a fine of \$100 for a first offence, \$200 for a second offence, and \$300 for a third or subsequent offence. 1960-61, c. 17, s. 6, *part*.

Proof of  
registration

**10.** In all cases where proof of registration under this Act is required to be made, the production of a certificate under the hand of the secretary-treasurer of the Board is sufficient evidence of the registration or non-registration of the person or persons named therein in lieu of the production of the original register, and any such certificate purporting to be signed by a person in his capacity of secretary-treasurer of the Board is *prima facie* evidence of his signature and election. 1960-61, c. 17, s. 6, *part*.

Disposition  
of fines

**11.** Any fine imposed for a contravention of this Act shall be paid over by the convicting provincial judge to the Board. 1960-61, c. 17, s. 6, *part, amended*.

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## CHAPTER 108

**The Dentistry Act****1. In this Act,**Interpre-  
tation

- (a) “Board” means the Board of Directors of the College;
- (b) “College” means The Royal College of Dental Surgeons of Ontario;
- (c) “dentistry” or “dental surgery” means any professional service usually performed by a dentist or dental surgeon, and includes,
  - (i) the diagnosis or treatment of, and the prescribing, treating or operating for the prevention, alleviation or correction of any disease, pain, deficiency, deformity, defect, lesion, disorder or physical condition of, in or from any human tooth, jaw or associated structure or tissue or any injury thereto,
  - (ii) the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing or prescribing or advising the use of any prosthetic denture, bridge, appliance or thing for any of the purposes indicated in subclause i, or to replace, improve or supplement any human tooth, or to prevent, alleviate, correct or improve any condition in the human oral cavity, or to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof, and
  - (iii) the taking or making, or the giving of advice or assistance or the providing of facilities for the taking or making of any impression, bite, cast or design preparatory to, or for the purpose of, or with a view to the making, producing, reproducing, constructing, fitting, furnishing, supplying, altering or repairing of any such prosthetic denture, bridge, appliance or thing;
- (d) “infamous, disgraceful or improper conduct in a professional respect” includes professional incompetence, gross carelessness in diagnosis or treatment, and fraudulent or exorbitant charging of fees;
- (e) “practice” means the practice of dentistry or dental surgery;

(f) "profession" means the profession of dentistry or dental surgery. R.S.O. 1960, c. 91, s. 1; 1966, c. 38, s. 1.

College  
continued

**2.** The Royal College of Dental Surgeons of Ontario is continued, and every person who holds a valid and unforfeited certificate of licence to practise dentistry granted to him by the College is a member of the corporation. R.S.O. 1960, c. 91, s. 2.

Power as to  
real estate

**3.**—(1) The College may purchase, take and possess for the purposes of the College, but for no other purpose, and, after acquiring it, may sell, mortgage, lease or dispose of any real estate. R.S.O. 1960, c. 91, s. 3 (1).

Consent to  
alienation,  
etc.,  
required

(2) Such real estate shall not be sold, mortgaged, leased or disposed of, except with the consent of the Board given at a meeting duly called for that purpose. R.S.O. 1960, c. 91, s. 3 (2); 1966, c. 38, s. 2.

Notice of  
meeting

(3) Notice of such meeting shall be given to every member of the Board by letter mailed to his last registered address seven days before the day appointed for the meeting, stating the object thereof. R.S.O. 1960, c. 91, s. 3 (3).

Board of  
Directors

**4.**—(1) There shall continue to be a Board of Directors. R.S.O. 1960, c. 91, s. 4 (1).

Membership  
of Board

(2) The Board shall consist of elected members, each of whom shall be a member of the College and shall hold office for two years, and the Minister of Education and the Minister of Health who are *ex officio* members of the Board. R.S.O. 1960, c. 91, s. 4 (2); 1966, c. 38, s. 3 (1).

Quorum

(3) The presence of a majority of the elected members of the Board is necessary to constitute a quorum. R.S.O. 1960, c. 91, s. 4 (3); 1966, c. 38, s. 3 (2).

One  
member  
for each  
electoral  
district,  
exception

(4) One member shall be elected for each electoral district mentioned in the Schedule by the members of the College practising in the district, except that in Electoral District No. 4 two members shall be elected, and every person so elected must be practising in the electoral district for which he is elected and no person is eligible for election as a representative of an electoral district who is a member of a dental faculty and in receipt of salary or other remuneration for his services thereon. R.S.O. 1960, c. 91, s. 4 (4); 1966, c. 38, s. 3 (3), *amended*.

One  
member  
from  
university,  
college or  
other body  
in Ontario

(5) One member shall be elected by and from the faculty of each university, college or other body in Ontario that is authorized to conduct a course or courses in dentistry and to grant degrees in dentistry and is actively conducting such course or courses in the year in which such election is held. 1966, c. 38, s. 3 (4).

(6) A member of the Board may at any time resign his office by giving notice of his resignation in writing to the secretary, and in case of a vacancy occurring through resignation or otherwise,

Resignations  
and  
vacancies

- (a) where the vacancy occurs in the representation of an electoral district more than two months before the holding of a general election, an election shall be held for the electoral district to fill the vacancy, and, where the vacancy occurs not more than two months before the date of the general election, no person shall be elected or appointed to fill the vacancy;
- (b) where the vacancy occurs in the representation of a faculty of dentistry, the remaining members of such faculty shall elect a duly qualified person to fill the vacancy; and
- (c) where a candidate dies after the nominations for election to the Board and before the closing of the polls, the Board shall fix other days for the nomination and for the election. R.S.O. 1960, c. 91, s. 4 (6); 1966, c. 38, s. 3 (5).

**5.** Ontario shall, for the purposes of this Act, be divided into eight electoral districts as described in the Schedule. R.S.O. 1960, c. 91, s. 5.

Electoral  
districts

**6.—**(1) An election of the Board shall be held on the second Wednesday of December in every second year, reckoning from the year 1926.

Election of  
Board

(2) No person is qualified to vote at an election if he is in arrear in respect of any fees payable by him.

Qualification  
of voters

(3) The votes at an election shall be given by closed voting papers.

How votes  
to be given

(4) The manner of holding an election with respect to notification of the electors of the time and place of holding the election, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, and other necessary details shall be determined by by-law of the Board, and in default of a by-law may be prescribed by the Lieutenant Governor in Council. R.S.O. 1960, c. 91, s. 6.

Manner of  
election

**7.—**(1) Every newly elected Board shall hold its first meeting in the city of Toronto on the first Monday in May or at such other time as is fixed by the retiring Board, and the members of the Board shall hold office until the first meeting of their successors.

First  
meeting  
of Board

(2) Other meetings shall be held at such times and places as the Board appoints.

Subsequent  
meetings



Special  
meetings

(3) Special meetings may be called by the president at any time, and on the request in writing of four members of the Board he shall call a special meeting. R.S.O. 1960, c. 91, s. 7.

President  
and  
officers

**8.**—(1) Every Board shall at its first meeting elect a president and a vice-president and shall appoint a registrar, a treasurer and a secretary and such other officers as the Board considers necessary, and any two or more of such appointive offices may be held by one person.

Remunera-  
tion of  
treasurer  
and secretary

(2) The treasurer and the secretary shall receive such remuneration for their services as the Board fixes.

President,  
etc., *pro*  
*tempore*

(3) The Board shall, if the president and vice-president are absent, elect one of its members to preside at its meeting, who, while so presiding, has the same powers and shall exercise the same functions as the president.

Executive  
committee

(4) The Board shall annually appoint from among its members not more than five persons who shall constitute an executive committee to take cognizance of and action upon all such matters as are delegated to it or as require immediate action or attention between meetings of the Board, but no action taken by the executive committee is valid unless agreed to by at least three members of the committee nor after the next ensuing meeting of the Board unless approved by the Board at that meeting, and the executive committee does not have power to alter, amend or suspend any by-law of the Board. R.S.O. 1960, c. 91, s. 8.

Remunera-  
tion of  
members  
of Board

**9.** The members of the Board shall be paid such fees for attendances and such reasonable travelling expenses as are fixed by by-law of the Board. R.S.O. 1960, c. 91, s. 9.

Funds pay-  
able to the  
treasurer

**10.**—(1) All moneys under the control of the Board shall be paid to the treasurer and shall be applied for the purposes of the College. R.S.O. 1960, c. 91, s. 10 (1).

Grants for  
certain  
purposes

(2) The Board may out of any funds in its hands from time to time make grants,

- (a) for post-graduate courses and kindred educational extension work;
- (b) for scholarship, lectureship and research work;
- (c) in aid of any fund that has for its purpose investigation in the interest of dental, medical and surgical science;
- (d) in aid of any association or other body having for its object the protection of members of the College or the adjustment of claims against them for anything done in their professional capacity; or

- (e) in aid of any association whose objects include improvement of dental health or the making available of better dental services or other benefits to the public or to the dental profession. R.S.O. 1960, c. 91, s. 10 (2); 1966, c. 38, s. 4.

**11.**—(1) The Board shall make such by-laws as it considers necessary for the proper and better guidance, government, discipline and regulation of the Board, the College, the members of the College and the profession of dental surgery and the carrying out of this Act, and such by-laws shall be published for two consecutive weeks in *The Ontario Gazette*, and do not take effect until so published. Power to make by-laws

(2) Such by-laws or any of them may be annulled by the Lieutenant Governor in Council. R.S.O. 1960, c. 91, s. 11. Annulment

**12.** The Board has power, subject to the approval of the Lieutenant Governor in Council, to pass by-laws, Dental hygienists

- (a) providing for the establishment, development, regulation and control of an ancillary body known as dental hygienists;
- (b) providing for the delegation to dental hygienists of the performance, under the direct control and supervision of a member of the College, of the services of cleaning and polishing teeth and the giving of instructions and demonstrations in oral hygiene and mouth care;
- (c) prescribing other specific dental duties of a minor nature that may be similarly delegated for performance by dental hygienists;
- (d) regulating the conditions and prescribing the qualifications for admission to such body;
- (e) prescribing the admission and annual fees payable by members of such body;
- (f) generally for the defining, regulating and controlling of the practice of dental hygiene. R.S.O. 1960, c. 91, s. 12.

**13.**—(1) The Board may appoint one or more examiners for the matriculation or preliminary examination of all students entering the profession, or may accept in lieu of such matriculation or preliminary examination evidence that a student has passed any other satisfactory examination. Examination of students

(2) Such examination shall be passed before the person concerned is entered as a student of dentistry. R.S.O. 1960, c. 91, s. 13. Idem

Curriculum  
for students  
etc.

**14.**—(1) The Board may prescribe a curriculum of studies to be pursued by students, the examination necessary to be passed and the fees to be paid to the treasurer before a certificate of licence to practise dental surgery is issued. R.S.O. 1960, c. 91, s. 14 (1); 1966, c. 38, s. 5.

Admission  
of other  
persons

(2) The Board may prescribe the conditions upon which dentists residing elsewhere than in Ontario and students and graduates from other dental colleges may be admitted to membership in the College. R.S.O. 1960, c. 91, s. 14 (2).

Approval  
for dental  
courses

**15.**—(1) No person shall conduct any course for training or imparting instruction in any branch of dentistry or shall grant degrees in dentistry without the approval of the Lieutenant Governor in Council upon the recommendation of the Minister of Health.

Revocation  
of approval

(2) Upon the recommendation of the Minister of Health, the Lieutenant Governor in Council may at any time revoke any approval given under this section. R.S.O. 1960, c. 91, s. 16.

Annual ex-  
aminations

**16.**—(1) The Board, once at least in every year, may cause to be held at a time fixed by the Board an examination of the candidates for certificates and such titles as the Board has authority to grant. R.S.O. 1960, c. 91, s. 17 (1); 1966, c. 38, s. 7 (1).

How and  
by whom  
conducted

(2) At every such examination the candidates shall be examined orally or in writing or otherwise by examiners to be appointed for that purpose by the Board in such subjects as the Board prescribes.

Fees of  
examiners

(3) The examiners shall receive such remuneration as is fixed by the Board.

Declaration  
by  
examiners

(4) Each examiner shall, if required, subscribe and take the following declaration:

I solemnly declare that I will perform my duty of Examiner without fear, favour, affection or partiality towards any candidate, and that I will not knowingly allow to any candidate any advantage that is not equally allowed to all.

R.S.O. 1960, c. 91, s. 17 (2-4).

Accepting  
other  
examination  
as substitute

(5) The Board may dispense with such examination in the case of a person who proves to the satisfaction of the Board that he has passed in any university or college or at a national dental examining board an examination that the Board considers of equal value. R.S.O. 1960, c. 91, s. 17 (5); 1966, c. 38, s. 7 (2).

**17.**—(1) If the Board is satisfied by the examination that the candidate is duly qualified to practise the profession of dental surgery and that he is a person of integrity and good moral character, it shall, subject to the by-laws, grant him a certificate of licence and the title of “Licentiate of Dental Surgery”, which certificate and title entitle him to all the rights and privileges conferred by this Act. Certificate of qualification to practise

(2) The Board shall hold at least one meeting in each year in the city of Toronto for the purpose of granting such certificates and titles and for the transaction of such other business as properly comes before it. R.S.O. 1960, c. 91, s. 18. Annual meeting

**18.** A certificate of licence shall be sealed with the corporate seal of the College and signed by the President and secretary of the Board, and the production of such certificate of licence is admissible in evidence as *prima facie* proof in all courts and upon all proceedings of its execution and contents. R.S.O. 1960, c. 91, s. 19. Issue of certificate

**19.** Every person desirous of obtaining a licence to practise dentistry in Ontario shall at least one month before the prescribed examination make application in the form prescribed by the Board and pay to the treasurer the prescribed fees, and deliver to the secretary the treasurer’s receipt for the fees, together with satisfactory evidence of compliance with the rules and regulations prescribed by the Board, and of his integrity and good morals. R.S.O. 1960, c. 91, s. 21; 1966, c. 38, s. 8. Prepayment of examination fees

**20.**—(1) Every member of the College engaged in the practice of dental surgery in Ontario shall, on or before the 1st day of January in each year, pay to the treasurer, or to a person deputed by him to receive it, such annual registration fee as is prescribed by by-law passed by the Board and approved by the Lieutenant Governor in Council, and such fee is recoverable by suit in the name of The Royal College of Dental Surgeons of Ontario in the small claims court of the division in which the member in default resides. Annual fees

(2) A member is not entitled to recover in any court for services rendered in the practice of dental surgery while he is in default in respect of an annual fee. R.S.O. 1960, c. 91, s. 22 (1, 2), *amended*. Result of default in payment of annual fee

(3) Where default is made in payment of the annual fee and such default continues for a period of one month, the licence of a member so in default lapses, but such licence may be renewed thereafter upon payment of the fee and an additional sum not exceeding \$25 as is prescribed by by-law of the Board and such sum is recoverable in the same manner as the annual fee. R.S.O. 1960, c. 91, s. 22 (3); 1961-62, c. 29, s. 1; 1966, c. 38, s. 9. Default in payment of fee



Prohibition  
against  
practising  
without  
certificate

**21.—**(1) A person who is not a member of the College shall not, by himself or by any other person,

- (a) practise or hold himself out as qualified or entitled to practise the profession of dentistry or any branch thereof;
- (b) provide or perform any service, act or operation that is part of the practice of dentistry or any branch thereof, or undertake or purport to provide or perform any such service, act or operation;
- (c) make, produce, reproduce, construct, furnish, supply, alter or repair any prosthetic denture, bridge, appliance or thing to replace, improve or supplement any human tooth, or to prevent, alleviate, correct or improve any condition in the oral cavity, or to be used in, upon or in connection with any human tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof, or give any advice or assistance in connection therewith, except on the prescription or instructions of a member of the College, and, where the use of a design, impression or cast is necessary, except by the use of a design, impression or cast furnished by a member of the College with such prescription or instructions;
- (d) take or use any name, title, addition or description representing or implying that he holds a certificate of licence to practise dentistry or that he is a member of the College; or
- (e) represent that he is, or take or use any name, title, addition or description representing or implying that he is a graduate of a dental college or that he practises or is entitled or qualified to practise dentistry or any branch thereof, or that contains the words "dentist", "dentistry", "dental", "dental surgeon", or "dental surgery", or any similar word or words or any derivative thereof or any letters, signs or abbreviation having a similar significance.

Furnishing  
written  
prescription

(2) A member of the College shall furnish to the dental technician or other person instructed by him to undertake or perform any work or service or give any advice or assistance described in clause *c* of subsection 1 a written prescription therefor signed by such member, and where necessary a design, impression or cast, at the time of giving such prescription or instructions.

What not to  
be deemed  
contraven-  
tion of  
section

(3) No work, service, advice or assistance described in clause *c* of subsection 1 that is undertaken, performed or given by a person pursuant to a prescription or instructions of a member of the College, and by the use of a design, impression or cast furnished

by a member of the College with such prescription or instructions, where a design, impression or cast is necessary, shall be deemed to be a contravention of this section.

(4) No work, service, advice or assistance that is part of the practice of dental hygiene and that is undertaken, performed or given by a dental hygienist in the office or clinic of a member of the College and under his supervision and control, shall be deemed to be a contravention of this section. Idem

(5) Except with the written permission of the Board, no person in pursuit of his business, trade or calling shall have in any place dental equipment of a character similar to that with which a place of business of a member of the College is equipped, and which equipment would enable the person generally to practise dentistry or any branch thereof, and the presence of such equipment in such place is *prima facie* evidence that the practice of dentistry is being carried on therein. Dental equipment, restriction as to use by unqualified person

(6) No person, other than the College, shall carry on in Ontario any school, college, laboratory or other institution for training or imparting instruction in any branch of dentistry or give instructions or courses in practice management without the consent of the Board, but this does not apply to a faculty of dentistry in a university in Ontario. R.S.O. 1960, c. 91, s. 23 (1-6). Prohibitions as to persons other than College establishing college, etc.

(7) Nothing in this section prevents any student of dental surgery from receiving instruction in public hospitals, clinics and faculties of dentistry or to practise under the personal supervision of a member of the College. R.S.O. 1960, c. 91, s. 23 (7); 1966, c. 38, s. 10 (1). Saving as to students

(8) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable for the first offence to a fine of not less than \$50 and not more than \$200, for the second offence to a fine of not less than \$200 and not more than \$500, and for every subsequent offence to a fine of not less than \$500, and he is not entitled to sue or recover in any court for any services that he performed or materials that he provided in the ordinary and customary work of a dental surgeon. 1966, c. 38, s. 10 (2). Offences

(9) The fines recovered under this section shall be paid over by the convicting provincial judge to the treasurer of the College. R.S.O. 1960, c. 91, s. 23 (9), *amended*. Disposition of fines

(10) Upon information on oath by a duly authorized agent of the College that he has reasonable cause to believe that there is in a building or premises any dental equipment that is being, has been or is likely to be used contrary to this Act, or that any prosthetic denture, bridge, appliance or thing is being, has been or is likely to be made, produced, reproduced, fitted, constructed, Power to enter and search premises

furnished, supplied, altered or repaired, contrary to this Act, it is lawful for any justice of the peace, by warrant under his hand, to authorize and empower such agent or any other person named therein to enter and search the building or premises and every part thereof at any time and for that purpose to break open any door, lock or fastening of the building or premises or any part thereof, or any closet, cupboard, box or any receptacle therein that might contain any such dental equipment, prosthetic denture, bridge, appliance or thing.

Onus of  
proof

(11) In a prosecution under this section the burden of proof,

- (a) of membership in the College;
- (b) that a prescription was or instructions were given by a member of the College; and
- (c) that any design, impression or cast used in complying with such prescription or instructions was furnished by a member of the College,

is upon the person charged with a contravention of this section R.S.O. 1960, c. 91, s. 23 (10, 11).

Suspension  
and cancel-  
lation of  
certificates

**22.**—(1) Where a member of the College has been heretofore or is hereafter convicted in Canada or elsewhere of an indictable offence, which conviction remains unreversed, or has been or is guilty of any infamous, disgraceful or improper conduct in a professional respect, he is subject to the disciplinary action and liable to the penalties provided for in this Act, but no disciplinary action shall be taken or any penalty imposed if the conviction is for a political offence committed out of the Commonwealth or for an offence that, though indictable, ought not, either from its nature or from the circumstances under which it was committed, to justify such disciplinary action or the imposition of such penalties.

Idem

(2) Where a member of the College is guilty of infamous, disgraceful or improper conduct in a professional respect, he is subject to disciplinary action and liable to the penalties provided for in this Act, notwithstanding that he has been acquitted of a criminal charge in respect of the same case.

Inquiry

(3) The Board or the executive committee thereof of its own motion may, or, upon the application in writing of four members of the College, the president shall, instruct the discipline committee to inquire into any case in which it is alleged that a member of the College is liable to disciplinary action or the imposition of penalties for any of the causes mentioned in subsection 1. 1966, c. 38, s. 11, *part.*

- 23.—(1) The Board may by by-law provide for,

Complaints committee

(a) the establishment of a complaints committee, which shall have authority to consider complaints regarding the conduct or actions of a member of the College and to refer any such complaint, in whole or in part, to the discipline committee;

(b) the composition and quorum of the complaints committee; and

(c) the procedure to be followed by the complaints committee in the conduct of its business.

(2) Notwithstanding subsection 1 and any by-law passed thereunder, the Board or the executive committee thereof, or the president on the application in writing of four members of the College, shall continue to have the authority mentioned in subsection 3 of section 22 to direct that an inquiry be made by the discipline committee into any case of alleged infamous, disgraceful or improper conduct in a professional respect on the part of a member of the College. 1966, c. 38, s. 11, *part*.

Inquiry powers in s. 22, subs. 3, not affected
- 24.—(1) The Board shall appoint and always maintain a discipline committee of its own body for the purpose of ascertaining the facts of each case that may become the subject of inquiry and exercising the disciplinary functions and imposing the penalties provided for by this Act. R.S.O. 1960, c. 91, s. 25 (1); 1966, c. 38, s. 12 (1).

Discipline committee

(2) The committee shall consist of not more than five members as the Board prescribes, three of whom constitute a quorum.

Number

(3) The Board may by by-law provide that the secretary of the Board be a member of the committee.

Secretary may be member

(4) The Board may pass by-laws for determining the tenure of office of the members of the committee and for the regulation and conduct of its proceedings.

By-laws as to tenure of office proceedings

(5) Subject to this section and to the by-laws of the Board, the committee may regulate the time and place for the holding, the manner of the convening and giving notice, and the conduct of its meetings.

Time, place and notice of meetings

(6) If a vacancy occurs in the membership of the committee, the remaining members may appoint a member of the Board to fill the vacancy, and the member appointed shall hold office until the next meeting of the Board.

Appointments to fill vacancies

(7) Notwithstanding any vacancy in the committee, so long as there are at least three members thereof, it is competent to exercise all or any of its powers.

Quorum of committee

(8) The committee may employ, at the expense of the Board, for the purposes of an inquiry, such legal or other assistance as the committee considers necessary.

Employment of assistance



Appearance  
by counsel

(9) The member whose conduct is the subject of inquiry has the right to be represented by counsel. R.S.O. 1960, c. 91, s. 25 (2-9).

Place of  
meeting

(10) All meetings of the committee for taking evidence or otherwise ascertaining the facts shall be held at the city of Toronto. R.S.O. 1960, c. 91, s. 25 (10); 1966, c. 38, s. 12 (2).

Notice of  
meeting

(11) At least ten days notice of the meeting of the committee for taking the evidence or otherwise ascertaining the facts shall be given to the member whose conduct is the subject of inquiry.

Contents  
of notice

(12) The notice shall contain a statement of the matter that is to form the subject of inquiry.

Evidence  
on oath

(13) The testimony of the witnesses shall be taken under oath, which the chairman or any member of the committee may administer, and there shall be full right to cross-examine all witnesses called and to adduce evidence in defence and in reply.

Effect of  
non-  
appearance

(14) If the person whose conduct is the subject of inquiry though duly notified does not attend, the committee may proceed in his absence, and he is not entitled to notice of the future meetings or proceedings of the committee.

## Subpoenas

(15) The committee and any party to the proceedings may obtain on *praecipe* from the Supreme Court a subpoena for the attendance of witnesses and the production of books, documents and things, and disobedience thereof shall be deemed a contempt of court.

Witness  
fees

(16) Witnesses are entitled to the like allowances as witnesses attending upon the trial of an action in the Supreme Court. R.S.O. 1960, c. 91, s. 25 (11-16).

Duties  
of the  
discipline  
committee

(17) The committee shall,

- (a) inquire into the conduct of any member of the College when so directed by the Board or the executive committee thereof or by the president;
- (b) hold hearings into charges made against members of the College in accordance with the practice and procedure prescribed by this section and the by-laws;
- (c) inquire into and report to the Board upon an application by a former member of the College to have his certificate of licence restored; and
- (d) perform such other duties as are assigned to it by the Board.

Powers of  
discipline  
committee

(18) Where after a hearing the committee finds that a member of the College is guilty of infamous, disgraceful or improper conduct in a professional respect, it may by order do any or all of the following things:

1. Suspend the certificate of licence of such member for a period of not more than twelve months.
2. Impose upon such member a fine of not more than \$1,000.
3. Direct that such member be reprimanded and, if considered warranted, that the fact of such reprimand be recorded on the record of such member.
4. Direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as it may designate and that, upon compliance with the terms, any penalty imposed be remitted.
5. Direct that such member pay to the College the costs of and incidental to the inquiry, which may include fees and disbursements for work done or proceedings taken before the inquiry was held and the cost of reporting and transcribing evidence.

(19) The costs, including the costs of appeal, if any, shall be taxed on the Supreme Court scale by the taxing officer of the Supreme Court at Toronto and shall, as far as practicable, be the same as in an action in the Supreme Court, and, upon the certificate of the taxing officer, execution may issue out of the Supreme Court for the collection of such costs by the College as upon a judgment in an action in such Court.

Taxation  
and  
collection  
of costs

(20) Where the complaint is found to be frivolous or vexatious, the committee may direct that such costs as it considers just be paid to the member of the College whose conduct is the subject of inquiry.

Costs in  
frivolous or  
vexatious  
complaints

(21) Where the committee is of the opinion that the certificate of licence of a member of the College should be cancelled or suspended for a period of more than twelve months, it shall make a report of the facts and its findings and recommendations thereon to the Board and may therewith transmit a transcript of the evidence taken at the inquiry, but the committee may suspend the certificate of licence of such member pending the decision of the Board. 1966, c. 38, s. 12 (3).

Suspension  
of the  
certificate of  
licence for  
a period  
exceeding  
twelve  
months

**25.**—(1) The powers and duties of the Board in disciplinary matters are,

Powers and  
duties of  
the Board in  
disciplinary  
matters

- (a) to receive and record reports of the discipline committee in respect of cases that have been completely dealt with by the committee and from which no appeal has been taken;
- (b) to receive and consider reports of the discipline committee,

- (i) in cases in which the committee is of the opinion that the penalty imposed should include cancellation or suspension for more than twelve months of the certificate of licence of the member of the College,
- (ii) in cases of appeal from the decision of the committee, or
- (iii) in applications for the restoration of the certificate of licence of a member of the College,

and to make such findings and orders in respect thereof and impose such penalties as the Board considers proper.

Idem           (2) The Board may act upon the report of the discipline committee or may require that it be furnished with a transcript of the evidence taken and may refer the matter back to the committee to take additional evidence.

Idem           (3) The Board may impose upon a member of the College any penalty that the discipline committee is authorized to impose or may direct that the certificate of licence of such member be cancelled or suspended for such period as the Board considers proper.

Idem           (4) The Board may direct the restoration of the certificate of licence of a member of the College and that such restoration be subject to the payment by the member of such fee, not exceeding the initial registration fee, as the Board specifies.

Power of the Board to require re-examination       (5) The Board may require any member of the College who in the opinion of the Board is performing substandard dental services in general or in some specific branch of dentistry in particular to present himself for such course or courses of prescribed instruction and at the end of such course or courses to present himself for such re-examination or re-examinations that in the opinion of the Board is or are required to demonstrate his competence, and may suspend the certificate of licence of such member pending satisfactory demonstration of his competence on such examination or examinations. 1966, c. 38, s. 13.

No action lies against Board or committee       **26.** No action shall be brought against the Board or the committee or a member thereof for anything done in good faith under this Act on account of any want of form or irregularity in their proceedings. R.S.O. 1960, c. 91, s. 26.

Appeal           **27.**—(1) Any member of the College aggrieved by any decision or order of the discipline committee may appeal to the Board within thirty days from the date of such decision or order and may further appeal to the Court of Appeal at any time within thirty

days from the date of any decision or order of the Board by which he is aggrieved, and the Board or the Court of Appeal, as the case may be, may upon the hearing of such appeal make such order in the matter and as to the costs of the hearing of the appeal as the Board or the Court of Appeal considers proper.

(2) The practice and procedure upon and in relation to an appeal to the Court of Appeal shall be similar to that provided by *The County Courts Act*, except that the proceedings and evidence shall be certified by the secretary of the College to the Court of Appeal. 1966, c. 38, s. 14.

Practice and  
procedure  
on appeal  
R.S.O. 1970,  
c. 94

**28.** A duly registered member of the College is not liable to an action for negligence or malpractice by reason of professional services requested or rendered unless the action is commenced within six months from the date when the matter complained of terminated. R.S.O. 1960, c. 91, s. 29.

Action for  
malpractice,  
etc.

**29.** Nothing in this Act affects or interferes with the rights and privileges conferred upon legally qualified medical practitioners by *The Medical Act*. R.S.O. 1960, c. 91, s. 30.

Saving as to  
qualified  
medical  
practitioners  
R.S.O. 1970,  
c. 268

## SCHEDULE

### ELECTORAL DISTRICTS

Electoral District No. 1 shall consist of the counties of Addington, Dundas, Frontenac, Glengarry, Grenville, Lanark, Leeds, Lennox, Prescott, Russell, Renfrew, and Stormont and The Regional Municipality of Ottawa-Carleton.

Electoral District No. 2 shall consist of the counties of Durham, Haliburton, Hastings, Northumberland, Ontario, Prince Edward, Peterborough, and Victoria, and The District Municipality of Muskoka.

Electoral District No. 3 shall consist of the districts of Algoma, Kenora, Manitoulin, Nipissing, Patricia, Parry Sound, Rainy River, Sudbury, Thunder Bay, Cochrane, and Timiskaming.

Electoral District No. 4 shall consist of The Municipality of Metropolitan Toronto and The Regional Municipality of York.

Electoral District No. 5 shall consist of the counties of Bruce, Dufferin, Grey, Huron, Perth, and Simcoe.

Electoral District No. 6 shall consist of the counties of Elgin, Essex, Kent, Lambton, and Middlesex.

Electoral District No. 7 shall consist of the counties of Brant, Haldimand, Norfolk, Oxford, Waterloo, and Wellington.

Electoral District No. 8 shall consist of the counties of Halton, Peel, and Wentworth and The Regional Municipality of Niagara.

R.S.O. 1960, c. 91, Sched.; 1966, c. 38, s. 16, *amended*.





## CHAPTER 109

### The Department of Agriculture and Food Act

**1.** In this Act,

- (a) “Department” means the Department of Agriculture and Food;
- (b) “Minister” means the Minister of Agriculture and Food. 1966, c. 39, s. 2.

Interpre-  
tation

**2.**—(1) The department of the public service known as the Department of Agriculture and Food is continued. 1966, c. 39, s. 3, *amended*.

Department  
continued

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1960, c. 92, s. 2 (2).

Minister  
to have  
charge

**3.** Subject to *The Public Service Act* there may be appointed a Deputy Minister of Agriculture and Food and such other officers, clerks and servants as the Minister considers necessary for the proper conduct of the business of the Department. 1966, c. 39, s. 4.

Deputy  
Minister  
and staff  
R.S.O. 1970,  
c. 386

**4.** Subject to *The Executive Council Act*, the Minister has the direction and control of,

Powers of  
Minister  
R.S.O. 1970,  
c. 153

- (a) the administration of the law relating to agriculture and food in all their branches; and
- (b) the administration of appropriations under the Department,

and has such other powers and shall perform such other functions and duties as are assigned to him by the Lieutenant Governor in Council. R.S.O. 1960, c. 92, s. 4; 1966, c. 39, s. 5.

**5.**—(1) Upon the recommendation of the Minister, the Lieutenant Governor in Council may establish programs for the encouragement of any branch of agriculture or food. 1966, c. 39, s. 6 (1).

Establish-  
ment of  
programs

(2) A program may determine the conditions under which services are provided by the Department and expenses allowed or grants payable. R.S.O. 1960, c. 92, s. 5 (2).

Conditions  
to services  
or grants

Fees

(3) A program may require that fees be paid by persons engaged in the branch of agriculture or food to which the program applies and may fix the amounts thereof. R.S.O. 1960, c. 92, s. 5 (3); 1966, c. 39, s. 6 (2).

Grants to  
veterinary  
fund

**6.** Where a program has been established under section 5 to provide for veterinary services in one or more than one territorial district and a veterinary agricultural committee has been established, any municipality may make grants to a veterinary fund, administered by the veterinary agricultural committee, from which payments are made to provide for the veterinary services in the territorial district. 1964, c. 19, s. 1.

Appointment  
and re-  
muneration  
of outside  
employees

**7.** Where any work of the Department is carried on elsewhere than at the seat of Government, the Minister may appoint such officers, clerks, servants and labourers as he considers necessary and may fix their salaries or other remuneration, and may designate the appropriation against which the same shall be charged, and the same are payable out of such appropriation accordingly. R.S.O. 1960, c. 92, s. 6.

Annual  
report

**8.** The Minister shall in each year submit to the Lieutenant Governor in Council a report of the proceedings of the Department during the next preceding fiscal year, and such report shall be laid before the Assembly forthwith, but, if the Legislature is not at the time in session, then within thirty days after the commencement of the next session. R.S.O. 1960, c. 92, s. 7.

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## CHAPTER 110

The Department of Correctional  
Services Act**1.** In this Act,

(a) “Board” means the Board of Parole;

Interpre-  
tation

(b) “correctional institution” means a correctional institution established or continued under section 7 and does not include a training school established or authorized under *The Training Schools Act*, or a lock-up established under section 349 of *The Municipal Act*;

R.S.O. 1970,  
cc. 467, 284

(c) “Department” means the Department of Correctional Services;

(d) “Deputy Minister” means the Deputy Minister of Correctional Services;

(e) “Minister” means the Minister of Correctional Services;

(f) “regulations” means the regulations made under this Act. 1968, c. 27, s. 1.

**2.**—(1) The department of the public service known as the Department of Correctional Services is continued. 1968, c. 27, s. 2 (1), *amended*.

Department  
continued

(2) The Minister shall preside over and have charge of the Department. 1968, c. 27, s. 2, (2).

Minister

**3.** The Minister is responsible for the administration of this Act and the Acts that are assigned or transferred to him by the Legislature or by the Lieutenant Governor in Council. 1968, c. 27, s. 3.

Duties of  
Minister

**4.** The expenses of the Department in carrying out its objects shall be paid out of such moneys as are appropriated therefor by the Legislature.

Expenses

**5.** The Minister may delegate any of the powers relating to the operation of the Department conferred upon him by or under this or any other Act to the Deputy Minister or any other official of the Department designated by the Minister. 1968, c. 27, s. 6.

Delegation  
of  
Minister's  
powers



Contracts	<p><b>6.</b> All dealings and transactions respecting any correctional institution including all contracts for goods, wares or merchandise necessary for the maintenance and operation of the institution or for the sale of goods prepared, produced or manufactured at a correctional institution shall be entered into and carried out by the Minister or an official of the Department designated by him, on behalf of Her Majesty. 1968, c. 27, s. 7.</p>
Correctional institutions	<p><b>7.—(1)</b> The jails, reformatorys, industrial farms and regional detention centres existing immediately before the 1st day of July, 1968 continue to exist as correctional institutions.</p>
Idem	<p><b>(2)</b> The Lieutenant Governor in Council may establish or discontinue such correctional institutions as he considers necessary. 1968, c. 27, s. 8.</p>
Sentence to correctional institution	<p><b>8.—(1)</b> The court before which any person is convicted under any Act of the Legislature of an offence punishable by imprisonment may sentence such person to a correctional institution.</p>
Female offenders	<p><b>(2)</b> Subject to section 10, the court before which any female person is convicted under any Act of the Legislature of an offence punishable by imprisonment may sentence such female person for an indefinite period not exceeding two years in a reformatory designated in the regulations as one to be used for the treatment, training, and confinement of female offenders only.</p>
Reformatorys	<p><b>(3)</b> Subject to section 10, the court before which any male person is convicted under any Act of the Legislature of an offence punishable by imprisonment may sentence him to imprisonment in a reformatory for a period of not less than three months, and for an indeterminate period thereafter of not more than two years less one day.</p>
Custody during conveyance	<p><b>(4)</b> Where a person is sentenced to imprisonment in a reformatory under this section, the person may be detained in any other correctional institution or in the custody of a provincial bailiff for the purpose of conveyance to the correctional institution to which he or she was sentenced. 1968, c. 27, s. 9.</p>
Superintendent	<p><b>9.—(1)</b> There shall be a superintendent for each correctional institution who shall be an official of the Department designated by the Minister and who is responsible for the administration of the institution.</p>
Duties of superintendent	<p><b>(2)</b> The superintendent of a correctional institution shall receive into his institution every person delivered to his institution under lawful authority for detention therein and is responsible for his custody and control until the term of his detention is completed or until he is by warrant under section 10 transferred therefrom or otherwise discharged in due course of law. 1968, c. 27, s. 10.</p>

**10.** The Minister may designate in writing one or more officials of the Department who shall control and direct admissions to correctional institutions and who from time to time by warrant may remove or transfer any person detained in a correctional institution from one correctional institution to another. 1968, c. 27, s. 11. Admissions and transfers

**11.—**(1) The Minister may designate in writing officials of the Department as inspectors. Inspectors

(2) Each correctional institution shall be regularly inspected by an inspector who shall inquire into all aspects of its operation and shall provide the Minister or an official of the Department designated by the Minister for the purpose with a written report in respect of each correctional institution inspected by him. 1968, c. 27, s. 12. Regular inspections

**12.—**(1) The Minister may appoint any person to investigate and inquire into any matter connected with or affecting the administration and operation of the Department. Ministerial inquiry

(2) The person who conducts an inquiry under subsection 1 shall report his findings in writing to the Minister. 1968, c. 27, s. 13. Report

**13.** Where a municipality is unable to establish and maintain a lock-up, or where it is considered advisable for the welfare of a person in custody or for public safety, the Minister may designate a correctional institution that may be used by the municipality as a lock-up and the municipality shall pay to the Treasurer of Ontario annually such rate per day for persons in custody in the lock-up as is fixed by the Minister for the year. 1968, c. 27, s. 14. Use of correctional institutions as lock-ups

**14.** Sections 15 to 33 are subject to the *Prisons and Reformatories Act* (Canada) in respect of persons detained in a correctional institution for an offence against the laws of Canada. 1968, c. 27, s. 15. Application of sections 15 to 33 R.S.C. 1952, c. 217

**15.—**(1) The Lieutenant Governor in Council may appoint provincial bailiffs who may convey any person in custody in any correctional institution to another correctional institution in which the person is lawfully directed to be confined. Provincial bailiffs

(2) A provincial bailiff may convey a person from one correctional institution to another without further authority than a warrant of removal signed by an official of the Department designated under section 10, which warrant shall be sufficient authority for a superintendent to deliver over the person named therein. Warrants of removal

Powers of  
provincial  
bailiff

(3) In the conveyance of a person from one correctional institution to another, a provincial bailiff has the same powers as a constable. 1968, c. 27, s. 16.

Hospital  
treatment

**16.**—(1) Where a person detained in a correctional institution requires hospital treatment that cannot be supplied at the institution, the superintendent of the institution shall arrange for the person to receive such treatment at a public hospital and shall report the fact to an official of the Department designated under section 10.

Idem

R.S.O. 1970,  
c. 269

(2) Where a person detained in a correctional institution requires hospitalization in a psychiatric facility under *The Mental Health Act*, the superintendent of the institution shall arrange for the person to be so hospitalized, and shall report the fact to an official of the Department designated under section 10, but where the superintendent is unable to have the person hospitalized, he shall notify an official designated under section 10, who shall then make arrangements to have the person hospitalized.

Payment

R.S.O. 1970,  
c. 378

(3) The charges for the hospital treatment referred to in subsections 1 and 2 shall be paid by the person receiving the treatment unless he is unable to provide for payment, in which case the charges shall be paid by the Department in accordance with the rates prescribed for payments in respect of indigent patients under *The Public Hospitals Act*. 1968, c. 27, s. 17.

Employ-  
ment  
outside  
institution

**17.** The Lieutenant Governor in Council from time to time may authorize the employment of any of the persons sentenced to imprisonment and detained in a correctional institution to do any specific work or duty for public purposes beyond the limits of the institution. 1968, c. 27, s. 18.

Temporary  
absence

**18.**—(1) Where, in the opinion of an official of the Department designated by the Lieutenant Governor in Council for the purpose, it is necessary or desirable that an inmate be temporarily absent from a correctional institution for medical or humanitarian reasons or to assist him in his rehabilitation, the temporary absence of the inmate may be authorized by such official on such terms and conditions as he may specify.

Idem

(2) Any inmate temporarily absent under subsection 1 shall comply with such terms and conditions as are specified, and shall return to the correctional institution at the expiration of the period for which he is permitted to be at large, and if he fails to so return or to comply with the terms and conditions prescribed, he shall be deemed to be unlawfully at large. 1968, c. 27, s. 19.

Vocational  
training  
program

**19.** The Lieutenant Governor in Council may establish a vocational training program under which persons detained in a correctional institution may be granted the privilege of continu-

ing to work at their regular employment, obtaining new employment, attending academic institutions, or participating in any other program that the Lieutenant Governor in Council may consider advisable in order that such persons may have a better opportunity for rehabilitation. 1968, c. 27, s. 20

**20.**—(1) Every person detained in a correctional institution shall be granted statutory and earned remission of his sentence and is subject to the forfeitures of such remission equivalent to that provided for in the *Prisons and Reformatories Act* (Canada). Remission  
R.S.C. 1952,  
c. 217

(2) Where a person detained in a correctional institution has forfeited the whole or any part of his statutory remission, an official of the Department designated by the Lieutenant Governor in Council for the purpose may, where he is satisfied that it is in the interest of the inmate's rehabilitation, remit the whole or any part of such forfeiture. 1968, c. 27, s. 21. Restoration  
of forfeited  
remission

**21.**—(1) No official or employee of the Department shall, either in his own name or in the name of or in connection with or as the agent of any other person, provide, furnish or supply any materials, goods or provisions for the use of a correctional institution, or have an interest, directly or indirectly, in furnishing, supplying or transporting the same or in any contract relating thereto. Employees  
not to be  
interested  
in contracts

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000. 1968, c. 27, s. 22. Offence

**22.** No official or employee of the Department shall buy from or sell to any person in custody in a correctional institution anything whatsoever or take or receive to his own use or for the use of any other person, any fee or gratuity from any person in custody in a correctional institution or from any visitor thereto or from any other person in respect of a person in custody, or employ any person in custody in working for him. 1968, c. 27, s. 23. Employees  
not to trade,  
etc. with  
persons in  
custody

**23.** The Board of Parole is continued and shall be composed of not more than seven persons appointed by the Lieutenant Governor in Council, of whom at least five shall be full-time members. 1968, c. 27, s. 24, *amended*. Board of  
Parole

**24.**—(1) The Lieutenant Governor in Council may designate one of the members of the Board to be chairman thereof. Chairman

(2) Three members of the Board constitute a quorum. 1968, Quorum c. 27, s. 25.

**25.**—(1) Such officers and employees as are considered necessary for purposes of the Board shall be appointed under *The Public Service Act*. Staff  
R.S.O. 1970,  
c. 386



Remunera-  
tion of  
part-time  
members

(2) The members of the Board who are not full-time members shall serve without salary but may be paid such expenses and allowances for attendance at Board meetings and for other attendances in connection with the business of the Board as may be determined by the Lieutenant Governor in Council. 1968, c. 27, s. 26.

Granting  
of parole

**26.** Subject to the regulations, the Board may order the release on parole of any person detained in a correctional institution,

(a) convicted of an offence against a statute of Ontario or against a municipal by-law and sentenced to an indeterminate sentence; or

R.S.C. 1952,  
c. 217

(b) referred to in section 43 of the *Prisons and Reformatories Act* (Canada) and sentenced to an indeterminate sentence,

to be at large during the indeterminate portion of his sentence. 1968, c. 27, s. 27.

Remissions

**27.** Where parole is granted, the term of parole shall include any portion of statutory remission standing to the credit of the parolee when he is released, but shall not include any period of earned remission standing to his credit at that time. 1968, c. 27, s. 28.

Information  
re parolees

**28.** When required by the Board, it is the duty of every person having information relevant to the suitability of a person to be paroled to submit such information to the Board in writing in the form prescribed by the regulations. 1968, c. 27, s. 29.

Termination  
of parole

**29.—**(1) Whenever a member of the Board, or such other person as is designated by the Board for the purpose, believes on reasonable and probable grounds that a person on parole has failed to observe any of the conditions of his parole, he may authorize the arrest and return to a correctional institution of the person by a warrant in writing signed by him.

Review

(2) Where a person on parole has been returned to a correctional institution under subsection 1, the Board shall review the parole as soon as possible thereafter, and shall decide either to terminate the parole or to release the person and allow him to continue on parole. 1968, c. 27, s. 30.

Conviction  
while  
paroled

**30.—**(1) Whenever a person while on parole is convicted of an indictable offence, he shall undergo a term of imprisonment equal to the portion of the term to which he was originally sentenced that remained unexpired at the time of the offence, in addition to any term of imprisonment to which he may be sentenced. 1968, c. 27, s. 31.

(2) Subsection 1 comes into force on a day to be named by the Lieutenant Governor by his proclamation. 1968, c. 27, s. 36. Commencement of subs. 1

**31.** The Board shall in each year, on or before the 30th day of September, make a report in writing to the Lieutenant Governor in Council of the history and proceedings of the Board during the twelve-month period ending on the 31st day of March of such year. 1968, c. 27, s. 32. Annual report

**32.** Nothing in this Act shall be construed as affecting or impairing or as intending or purporting to affect or impair the powers of the Governor General of Canada or the Lieutenant Governor of Ontario to grant a reprieve, pardon or commutation of sentence in any case. 1968, c. 27, s. 33. Interpretation

**33.—(1)** The Lieutenant Governor in Council may make regulations, Regulations

- (a) respecting the operation and management of correctional institutions or any class thereof, and respecting the classification, treatment, training, employment, discipline and control of persons detained therein;
- (b) designating correctional institutions as reformatories for the purposes of the *Prisons and Reformatories Act* (Canada); R.S.C. 1952, c. 217
- (c) establishing and governing a vocational training program referred to in section 19;
- (d) prescribing conditions under which a person may be paroled;
- (e) prescribing procedures of the Board for the performance of its functions;
- (f) prescribing forms for the purposes of this Act and providing for their use.

(2) Such of the regulations made under clause *d*, *e* or *f* of subsection 1 as are approved by the Minister of Justice (Canada) apply in respect of persons in custody referred to in section 43 of the *Prisons and Reformatories Act* (Canada). 1968, c. 27, s. 34. Application of regulations to

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## CHAPTER 111

## The Department of Education Act

**1.** In this Act,Interpre-  
tation

- (a) “board” means public school board, separate school board, secondary school board or board of education;
- (b) “Department” means the Department of Education;
- (c) “Minister” means the Minister of Education;
- (d) “private school” means a school at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any day other than a school holiday for five or more pupils of compulsory school age, whether or not instruction is also provided for pupils of other ages, in any of the subjects of the elementary or secondary school courses of study, except a school operated by the Government of Ontario or by an elementary or secondary school board or a board of education;
- (e) “regulations” means the regulations made under this Act. R.S.O. 1960, c. 94, s. 1; 1961-62, c. 31, s. 1; 1968-69, c. 24, s. 1.

**2.—**(1) The department of the public service known as the Department of Education is continued.

Department  
continued

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1960, c. 94, s. 2.

Minister  
to have  
charge

**3.** The Minister is responsible for the administration of this Act and the regulations and of such other Acts and the regulations thereunder as may be assigned to him by the Lieutenant Governor in Council. R.S.O. 1960, c. 94, s. 3.

Administra-  
tion

**4.—**(1) The Minister shall, after the close of the calendar year, file with the Provincial Secretary an annual report upon the affairs of the Department.

Annual  
report

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 94, s. 4, *amended*.

Tabling



Credits for  
attendance  
in special  
cases

**5.** For the purpose of recording attendance, the Minister may require to be added to the actual aggregate attendance of a school the number of days attendance lost by pupils,

- (a) who left school to enlist in the Canadian Armed Forces or to become employed in the production of food or other essential war materials, and whose absence from school was in accordance with the regulations; or
- (b) who were absent from school on days regarded as holy days by the church or religious denomination to which they belong; or
- (c) who were absent from school because of,
  - (i) a failure of transportation arrangements caused by inclement weather, or
  - (ii) the closing of one or more classrooms caused by inclement weather, fire, flood or the breakdown of the school heating plant, or a similar emergency,
 which, in the opinion of the Minister, was unavoidable; or
- (d) who were absent from school when their regular classroom work was discontinued because of the holding of examinations that they were not required to write; or
- (e) who, under the terms of an arrangement approved by the Minister, were absent from a secondary school because of their early enrolment at a university or polytechnical institute in Ontario; or
- (f) who were absent from school because of the school holidays referred to in paragraphs 2, 3, 4 and 5 of section 4 of *The Schools Administration Act* except the holiday appointed by the Governor General as Thanksgiving Day. R.S.O. 1960, c. 94, s. 5; 1964, c. 20, s. 1; 1966, c. 40, s. 1; 1968-69, c. 24, s. 2.

R.S.O. 1970,  
c. 424

Closing  
of school  
or class

**6.—(1)** The Lieutenant Governor in Council, upon the recommendation of the Minister, may order the closing of a school or any class thereof for a specified period.

Calculation  
of grants

(2) Where a school or class is closed for a specified period under subsection 1, the school or class shall, for the purpose of calculating legislative grants, the cost of education of county pupils, and the fees, if any, of other pupils, be deemed to have been open during the period with a perfect aggregate daily attendance. R.S.O. 1960, c. 94, s. 6.

Guarantee of  
debentures

**7.—(1)** The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures issued by an elementary school board in Ontario

or by a municipality in a territorial district for any school purpose for which the board or municipality is authorized to issue debentures.

(2) The form of the guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council, and every guarantee given or purporting to be given under this section is binding upon the Province and is not open to question upon any ground whatsoever.

Form of  
guarantee

(3) Any debenture issued by a school board or municipality, payment of which is guaranteed by the Province under this section, is valid and binding upon the school board or municipality by which it is issued and the ratepayers thereof, according to its terms, and the validity of any debenture so guaranteed is not open to question upon any ground whatsoever. R.S.O. 1960, c. 94, s. 8.

Validity of  
guaranteed  
debentures

**8.** Notwithstanding anything in any Act fixing the rate of interest to be paid or credited to any school board by the Treasurer of Ontario upon school securities, sinking funds or debentures deposited with or in the hands of the Treasurer of Ontario either as an investment by the Province or for investment on behalf of a school board, the rate at which interest shall be allowed to, paid by or credited to a school board upon any such securities, sinking funds or debentures heretofore or hereafter deposited with or purchased by the Treasurer of Ontario shall be the current rate of interest as fixed from time to time by the Lieutenant Governor in Council, to be based upon the average rate of interest actually payable upon the moneys borrowed on behalf of Ontario as a provincial loan and then outstanding. R.S.O. 1960, c. 94, s. 9.

Fixing rate  
of interest  
on debentures,  
etc., held by  
Treasurer

**9.—**(1) The Minister shall define the courses of study in the prescribed subjects of Grade 13. R.S.O. 1960, c. 94, s. 10 (1).

Courses of  
study, etc.

(2) The Minister may,

Idem

(a) recommend for the guidance of boards and teachers the program in kindergarten;

kindergarten  
course

(b) define the courses of study, recommend courses of study for the guidance of boards and teachers, or permit boards and teachers to define courses of study to be used with the Minister's approval, in the prescribed subjects for Grades 1 to 12 inclusive;

Grades 1-12  
courses

(c) define courses of study and subjects to be taught in teachers' colleges and provincial technical and polytechnical institutes;

courses for  
teachers'  
colleges,  
institutes

(d) recommend reference books and library books for use by teachers and teachers-in-training;

text and  
reference  
books

- idem (e) approve text-books for use in teachers' colleges and provincial technical and polytechnical institutes;
- school terms (f) determine the number of terms and the dates upon which each term begins and ends in respect of teachers' colleges, provincial technical and polytechnical institutes, and schools for the deaf and blind. R.S.O. 1960, c. 94, s. 10 (2); 1966, c. 40, s. 2.

Application  
R.S.O. 1970,  
c. 410

- (3) An act of the Minister under this section is not a regulation within the meaning of *The Regulations Act*. R.S.O. 1960, c. 94, s. 10 (3).

Powers of  
Minister:  
cost of  
teachers-in-  
training

**10.—(1)** The Minister may,

- (a) pay out of any appropriation for teachers' colleges or for summer and winter courses for the training and instruction of teachers the travelling and other expenses and such per diem allowance as he may fix for living expenses of students attending such schools whenever he considers such payment necessary or desirable;
- accept  
equivalent  
qualification (b) accept in lieu of any requirement prescribed for a teacher, head of a department, director, supervisor or supervisory officer, or for a candidate for a certificate or for admission to a school, such evidence of experience, academic scholarship or professional training as he considers equivalent thereto;
- temporary  
certificate (c) grant a temporary or interim certificate of qualification as a teacher to a person who is a Canadian citizen or a landed immigrant and who is otherwise qualified;
- letter of  
permission (d) grant a letter of permission to a board authorizing the board to employ an unqualified person as a teacher if the Minister is satisfied that no qualified person is available, but a letter of permission shall be effective only for the period, not exceeding one year, that the Minister may specify therein;
- suspend or  
cancel (e) suspend or cancel any certificate or diploma granted under this Act or the regulations;
- commission of  
inquiry (f) appoint as a commission one or more persons, as he considers expedient, to inquire into and report upon any school matter, and may confer upon such commission all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*;
- R.S.O. 1970,  
c. 379
- secure legal  
opinion (g) submit a case on any question arising under *The Schools Administration Act*, *The Public Schools Act*, *The Separate Schools Act*, *The Secondary Schools and Boards of Education Act*, or this Act to a judge of the Supreme Court for his opinion and decision or, by leave of a judge of the Supreme Court, to the Court of Appeal for its opinion and decision;
- R.S.O. 1970,  
cc. 424, 385,  
430, 425

- (h) determine all disputes and complaints laid before him, determine disputes and complaints the settlement of which is not otherwise provided for by law, and all appeals made to him from a decision of a principal, supervisory officer or other school officer;
- (i) apportion and pay all sums received for educational purposes from the Government of Canada or any source apportion federal grants other than an appropriation by the Legislature, in accordance with the terms of the grant, if any, and otherwise in any manner he considers proper;
- (j) require employees of school boards to submit to medical medical examinations examinations;
- (k) make use of any elementary or secondary school for the purposes of observation and practice teaching by teachers-in-training in any teachers' college or in a college of education established under section 17; practice teaching
- (l) provide for courses of training for supervisory officers. supervisory officers training R.S.O. 1960, c. 94, s. 11 (1); 1968, c. 28, s. 1; 1968-69, c. 24, s. 3, *amended*.

(2) Notwithstanding Part III of *The Schools Administration Act* or any other Act and notwithstanding anything in the contract between the board and the teacher, where a permanent or probationary teacher is employed by a board and a matter arises that in the opinion of the Minister adversely affects the welfare of the school in which the teacher is employed, Termination of contract where welfare of school involved R.S.O. 1970, c. 424

- (a) the board or the teacher may, with the consent of the Minister, give the other party thirty days written notice of termination, and the contract is terminated at the expiration of thirty days from the date the notice is given; or
- (b) the board may, with the consent of the Minister, give the teacher written notice of immediate termination together with one-tenth of the teacher's yearly salary in addition to the amount to which he would otherwise be entitled, and the contract thereupon is terminated. R.S.O. 1960, c. 94, s. 11 (2).

**11.—**(1) The Minister has and shall be deemed always to have had authority to establish a board to act as agent for the Crown in right of Canada represented by the Department of Labour to select and employ civilian instructors as required by the Canadian Armed Forces for duties in schools or training centres operated by the Canadian Armed Forces under procedures authorized by such Department of Labour. Board to select teachers for schools operated by Canadian Armed Forces



Pensions  
for civilian  
instructors,  
etc.

R.S.O. 1970,  
c. 224

(2) The Minister may enter into an agreement with the Crown in right of Canada represented by the Minister of Labour to provide a pension plan for such civilian instructors and other employees of the board, and, where the Minister of Labour agrees to pay the employer's share under any such pension plan, may contract with an insurer under *The Insurance Act* to provide such a pension plan. 1964, c. 20, s. 2, *amended*.

Regulations

R.S.O. 1970,  
cc. 385, 430,  
424, 425

**12.**—(1) Subject to the provisions of any statute in that behalf and to the approval of the Lieutenant Governor in Council, the Minister may make regulations with respect to schools or classes established under *The Public Schools Act*, *The Separate Schools Act*, *The Schools Administration Act*, *The Secondary Schools and Boards of Education Act*, or this Act, or any predecessor of any of such Acts, and with respect to all other schools supported in whole or in part by public money,

general

1. for the establishment, organization, administration and government thereof;

admit pupils

2. governing the admission of pupils;

special  
education

3. governing the establishment, organization and administration of special education programs and services;

purchase  
books

4. requiring boards to purchase books for the use of pupils;

accommoda-  
tion and  
equipment

5. prescribing the accommodation and equipment of buildings and the arrangement of premises;

bursaries

6. for the establishment and awarding of bursaries and types, classes and subclasses thereof, prescribing the terms and conditions thereof and the persons eligible therefor, for fixing the value or maximum value of any bursary or type, class or subclass thereof, and for authorizing the Minister to determine, subject to the maximum value, the amount to be awarded to an applicant where a maximum value has been prescribed;

Student-Aid  
Loan Fund

7. for the establishment of the Provincial Student-Aid Loan Fund to be maintained by donations received for that purpose and by moneys appropriated by the Legislature for that purpose, for prescribing the terms and conditions of the loans and the persons eligible therefor, for defining the types, classes and subclasses of loans, for fixing the maximum loans and terms of repayment, for authorizing the Minister to determine the amount to be loaned to an applicant not exceeding the maximum provided in the regulations, and for providing the method of repayment of loans;

cadet corps

8. for the establishment and regulation of cadet corps;

9. governing the granting of permanent, temporary, in-  
term, special and other certificates of qualification; certificates
10. authorizing the Minister to designate a secondary  
school as a collegiate institute and to redesignate a  
collegiate institute as a secondary school, and prescrib-  
ing the conditions under which he may do so; collegiate  
institute
11. prescribing the form of contract that shall be used for  
every contract entered into between a board and a  
permanent teacher or a probationary teacher or an  
itinerant teacher for the services of the teacher, and  
prescribing in the form of contract the terms and  
conditions of the contract; teacher's  
contract
12. governing the establishment and maintenance of public  
and secondary schools on lands held by the Crown in  
right of Canada or Ontario or an agency thereof, or on  
other lands that are exempt from taxation for school  
purposes, and providing for the payment of moneys to  
assist in the cost of establishment and maintenance of  
such schools; schools on  
Crown lands
13. governing the attendance at elementary and secondary  
schools of pupils residing on lands held by the Crown in  
right of Canada or Ontario or an agency thereof, or on  
other lands that are exempt from taxation for school  
purposes, and governing the payment of the cost of  
education of such pupils; pupils on  
Crown  
lands
14. providing for assistance in the payment of the cost of  
education and transportation costs of elementary and  
secondary school pupils residing in the territorial dis-  
tricts or on lands held by the Crown in right of Canada  
or Ontario or an agency thereof, or on other lands that  
are exempt from taxation for school purposes; transporta-  
tion of  
pupils on  
Crown  
lands
15. fixing the method of calculating the cost of education of  
elementary and secondary school pupils residing on  
lands held by the Crown in right of Canada or Ontario or  
an agency thereof, or on other lands that are exempt  
from taxation for school purposes, and authorizing  
boards, tuition fees  
on Crown  
lands
  - i. to charge those pupils a fee in accordance with that  
method, or
  - ii. instead of charging those pupils a fee, to enter into  
an agreement with the Crown, Crown agency or  
other owner of the lands for the payment of an  
amount in lieu of the fee;

- |                                     |  |
|-------------------------------------|--|
| examination boards                  | 16. providing for the establishment of supervising examination boards and for the appointment by the Minister of the members thereof, prescribing the duties thereof and the remuneration, including allowances for travelling and other expenses, to be paid to the members thereof;  |
| examinations                        | 17. governing the establishment and conduct of examinations and the settling of the results thereof, and prescribing the fees to be paid by candidates thereat;  |
| fees of examiners                   | 18. prescribing the fees to be paid to presiding officers and examiners in connection with examinations and by whom and in what manner such fees and other expenses in connection with such examinations shall be borne and paid;  |
| certificates                        | 19. for granting diplomas and certificates of standing;  |
| subjects of study                   | 20. prescribing the subjects that shall be taught, and the subjects that may be taught, in Grades 1 to 13 inclusive;   |
| language of instruction             | 21. prescribing the language or languages in which any subject or subjects shall be taught in any grade or grades in any schools or classes;   |
| subjects for diploma                | 22. prescribing subjects leading to diplomas and certificates of standing;   |
| exchange teachers                   | 23. providing for and governing the exchange of teachers between Ontario and other parts of Canada and between Ontario and other jurisdictions;  |
| school gardens                      | 24. for the establishment and regulation of school gardens;  |
| school libraries                    | 25. for the establishment and regulation of school libraries;  |
| medical and dental inspection       | 26. subject to the approval of the Minister of Health, for the medical and dental inspection of pupils in elementary schools where provision for such inspection was inaugurated by the boards of such schools before the 31st day of July, 1924, and in secondary schools where such provision was inaugurated by the boards of such schools before the 31st day of December, 1941; |
| practice teaching                   | 27. respecting the use of schools for purposes of observation and practice teaching by teachers-in-training;   |
| powers and duties of teachers, etc. | 28. prescribing the powers, duties and qualifications, and governing the appointment of, teachers, supervisors, supervisory officers, heads of departments, principals, superintendents, bursars, matrons, directors, school attendance counsellors and other officials;   |

29. prescribing the duties of pupils; pupils
30. prescribing the qualifications and experience that will be recognized for the purpose of,
  - i. qualifying persons to teach, qualification to teach, attend school, write exams
  - ii. admitting persons to schools, and
  - iii. permitting persons to write examinations;
31. governing the operation of schools for trainable retarded children; schools for trainable retarded children
32. prescribing the powers and duties of boards with respect to the appointment and duties of school attendance counsellors, and providing for the giving of notices and the making of returns in connection with school attendance; attendance counsellors
33. prescribing forms and providing for their use; forms
34. governing the selection and approval of text-books, library books and reference books for use in Grades 1 to 13 inclusive; approve texts
35. governing the transportation of pupils to and from elementary and secondary schools and schools for trainable retarded children; transportation
36. providing for assistance in the payment of transportation costs of persons residing in the territorial districts who are attending universities or other institutions of higher learning; idem
37. establishing scholarships for residents of Ontario to enable them to pursue courses of study outside Ontario, and prescribing the terms and conditions under which they may be awarded and the courses of study that may be pursued; scholarships
38. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 94, s. 12 (1); 1964, c. 20, s. 3 (3); 1966, c. 40, s. 3; 1967, c. 20, s. 1; 1968, c. 28, s. 2, *amended*. miscellaneous

(2) Every contract executed by a person under twenty-one years of age that provides for the repayment of a loan made to such person out of the Provincial Student-Aid Loan Fund is binding upon such person and enforceable against him in the same manner and to the same extent as if he were over twenty-one years of age at the time he executed the contract. R.S.O. 1960, c. 94, s. 12 (2). Student-Aid Loan contracts



Regulations,  
grants

(3) Subject to the provisions of any statute in that behalf and to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) providing for the apportionment and distribution of all moneys appropriated or raised by the Legislature for educational purposes;
- (b) prescribing the conditions governing the payment of legislative grants;
- (c) prescribing definitions of "approved cost" and "cost of operating" for the purpose of legislative grants to boards, and requiring that "approved cost" be subject to the approval of the Minister;
- (d) governing estimates that a board is required to prepare and adopt and expenditures that may be made by a board for any purpose. R.S.O. 1960, c. 94, s. 12 (3); 1968-69, c. 24, s. 4 (1).

Regulations,  
community  
programs,  
etc.

(4) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations with respect to adult education, recreation, camping and physical education,

- (a) providing for programs therefor;
- (b) governing the granting of municipal recreation directors' interim and permanent certificates, and governing the renewal of municipal recreation directors' interim certificates;
- (c) authorizing,
  - (i) municipal councils to appoint recreation committees with the approval of the Minister, or authorizing two or more municipal councils of municipalities having a combined population of under 25,000 to appoint joint recreation committees with the approval of the Minister,
  - (ii) recreation committees or joint recreation committees to appoint directors, assistants and secretaries,
  - (iii) joint recreation committees or recreation committees in municipalities having a population of not less than 25,000, to appoint area recreation committees and area recreation directors,
  - (iv) two or more municipalities to enter into agreements,
  - (v) where territory without municipal organization is within the jurisdiction of one board, the board to appoint, with the approval of the Minister, one or more recreation committees for such territory without municipal organization, and

(vi) where territory without municipal organization is within the jurisdiction of two boards, such boards to appoint, with the approval of the Minister, a joint recreation committee for such territory without municipal organization as may be agreed upon by the two boards,

for the purpose of programs of recreation;

- (d) prescribing the composition of recreation committees, joint recreation committees and area recreation committees, and fixing the number or maximum number of members thereof, for the purpose of programs of recreation;
- (e) prescribing definitions of joint recreation program, joint recreation committee, municipal recreation program, municipal recreation services, municipal recreation director, assistant municipal recreation director, recreation program, recreation committee;
- (f) prescribing a definition of "approved maintenance and operating costs" for the purpose of legislative grants for programs of recreation, and requiring that "approved maintenance and operating costs" be subject to the approval of the Minister.
- (g) providing for the apportionment and distribution of all moneys appropriated or raised by the Legislature for,
  - (i) programs of adult education, recreation, camping and physical education,
  - (ii) leadership training camps, and
  - (iii) the maintenance of historical, literary and scientific institutions;
- (h) prescribing the conditions governing the payment of grants for,
  - (i) programs of adult education,
  - (ii) programs of recreation, camping or physical education, and providing for the approval of the Minister in any condition, or
  - (iii) the maintenance of historical, literary and scientific institutions;
- (i) authorizing the Minister to determine the number of assistants and area community programs in respect of which grants may be paid for programs of recreation;
- (j) authorizing the payment, with the approval of the Minister, of special grants for programs of recreation, and fixing the amounts thereof. R.S.O. 1960, c. 94, s. 12 (4); 1968-69, c. 24, s. 4 (2).

Interpre-  
tation

(5) In subsection 4, "physical education" includes recreation for crippled persons under the age of nineteen years. R.S.O. 1960, c. 94, s. 12 (5).

Technical  
and  
vocational  
agreements,  
etc.

**13.**—(1) The Crown in right of Ontario, represented by the Minister, with the approval of the Lieutenant governor in Council, may make agreements with the Crown in right of Canada represented by the Minister of Manpower and Immigration of Canada respecting technical and vocational training and represented by the Minister of National Health and Welfare of Canada respecting physical fitness. 1962-63, c. 32, s. 2; 1967, c. 20, s. 2 (1).

Pupils at  
Indian  
schools  
R.S.C. 1952,  
c. 149

(2) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister charged with the administration of the *Indian Act* (Canada), for the admission of pupils, other than Indians as defined in that Act, to schools for Indians operated under that Act. R.S.O. 1960, c. 94, s. 13 (2).

Bursaries  
and  
scholarships

(3) The Crown in right of Ontario, represented by the Minister, may make agreements with the Crown in right of Canada, represented by the Minister of Manpower and Immigration of Canada, respecting the establishment, awarding and payment of bursaries and scholarships to students eligible therefor under the regulations. R.S.O. 1960, c. 94, s. 13 (3); 1967, c. 20, s. 2 (2).

Establish-  
ment of  
technical  
institutes

**14.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may establish, name, maintain, conduct and govern schools for technical training in one or more branches of industry.

Agreements

(2) For the purpose of subsection 1, the Minister may enter into an agreement with any organization representing one or more branches of industry.

Naming of  
institutes

(3) A school providing instruction in one branch of industry shall be known as a provincial technical institute and in more than one branch of industry as a provincial polytechnical institute.

Conduct of  
technical  
institutes

(4) The Minister shall be assisted in the conduct of a provincial technical institute by an institute board and the institute board shall be assisted by an advisory committee.

polytechnical  
institutes

(5) The Minister shall be assisted in the conduct of a provincial polytechnical institute by an institute board, and the institute board shall be assisted by an advisory committee for each branch of industry in which training is given at the institute.

Cost of  
establish-  
ment and  
maintenance

(6) The cost of the establishment, maintenance and conduct of a provincial technical or polytechnical institute shall be payable out of moneys appropriated by the Legislature or received from Canada for the purposes of technical education, and out of moneys contributed by any organization that has entered into an agreement under subsection 2.

(7) Without restricting the generality of section 12, the Minister, subject to the approval of the Lieutenant Governor in Council, may make regulations with respect to such institutes, Regulations  
for  
institutes

- (a) providing for the composition of institute boards and advisory committees, and for the appointment by the Minister of the members thereof;
- (b) prescribing the duties and powers of institute boards and advisory committees;
- (c) respecting the holding of meetings of institute boards and advisory committees, the manner in which the meetings are to be called and conducted and the procedure thereat;
- (d) for the election or appointment of chairmen and secretaries of institute boards or advisory committees, and prescribing their duties;
- (e) for the establishment, with the approval of the Minister, of full-time day courses of study, special and part-time day courses of study, and evening courses of study;
- (f) requiring pupils to pay registration, tuition and laboratory fees and fixing the amount and manner of payment thereof;
- (g) classifying persons who may be admitted from outside Ontario and prescribing the fees payable by members of each class and the manner of payment thereof;
- (h) requiring pupils enrolled in a special or part-time day course of study or an evening course of study to pay tuition fees, and authorizing boards to fix the amount and manner of payment thereof.

(8) The board of a provincial technical or polytechnical institute may accept in lieu of any diploma or other requirement prescribed for admission to a course of study at the institute, Alternative  
admission  
requirements

- (a) such evidence of academic standing or course of training as the principal and advisory committee consider equivalent thereto; or
- (b) evidence, satisfactory to the principal and advisory committee, that the applicant for admission is competent to undertake the course of study. R.S.O. 1960, c. 94, s. 14.

**15.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may establish, name, maintain, conduct and govern colleges of applied arts and technology that offer programs of instruction in one or more fields of vocational, technological, general and recreational education and training in day or evening courses and for full-time or part-time students. Colleges  
of applied  
arts and  
technology



Council of  
Regents

(2) The Minister shall be assisted in the planning, establishment and co-ordination of programs of instruction and services for such colleges by a council to be known as the Ontario Council of Regents for Colleges of Applied Arts and Technology composed of such members as may be appointed by the Minister.

Boards of  
governors,  
advisory  
committees

R.S.O. 1970,  
c. 89

(3) There shall be a board of governors for each college of applied arts and technology, which shall be a corporation with such name as the Minister may designate and shall be composed of such members and have such powers and duties, in addition to those under *The Corporations Act* as varied by the regulations, as may be provided by the regulations, and each board shall be assisted by an advisory committee for each branch of a program of instruction offered in the college other than programs of instruction referred to in subsection 5.

Agreements

(4) For the purposes of subsection 1 and subject to the approval of the Minister, a board of governors may enter into an agreement with any organization representing one or more branches of industry or commerce or with any professional organization.

Idem

(5) Subject to the approval of the Minister, a board of governors of a college may enter into an agreement with a university for the establishment, maintenance and conduct by the university in the college of programs of instruction leading to degrees, certificates or diplomas awarded by the university.

Cost of  
establish-  
ment and  
maintenance

(6) The cost of the establishment, maintenance and conduct of a college shall be payable out of moneys appropriated therefor by the Legislature and out of moneys received from Canada for the purposes of technical education or other programs of instruction of the college, moneys contributed by organizations that have entered into agreements with the board of governors of the college, fees paid by students and moneys received from other sources. 1965, c. 28, s. 1, *part, amended*.

Regulations

(7) Without restricting the generality of section 12, the Minister, subject to the approval of the Lieutenant Governor in Council, may make regulations with respect to colleges of applied arts and technology,

- (a) providing for the composition of the Ontario Council of Regents for Colleges of Applied Arts and Technology;
- (b) providing for the composition of the boards of governors on a suitably representative basis and of the advisory committees thereof and for the appointment of the members of such boards and committees;
- (c) prescribing the powers and duties of boards of governors and advisory committees, the manner of calling and conducting the meetings thereof and the procedure for the election or appointment of chairmen and officers;

- (d) prescribing the type, content and duration of programs of instruction to be offered;
- (e) prescribing the requirements for admission to any program of instruction, and prescribing the terms and conditions upon which students may remain in, or be discharged from, any program of instruction;
- (f) for the granting of certificates and diplomas of standing following successful completion of any program of instruction;
- (g) prescribing the qualifications and conditions of service of members of the teaching staffs of such colleges;
- (h) providing for the payment of travelling allowances or expenses to members of the Ontario Council of Regents for Colleges of Applied Arts and Technology, boards of governors and advisory committees, and of the officers and employees of such colleges;
- (i) providing for the payment of a *per diem* allowance to the chairman and to the members of the Ontario Council of Regents for Colleges of Applied Arts and Technology;
- (j) requiring students to pay registration, tuition and laboratory fees in respect of any program of instruction, and fixing the amounts and manner of payment thereof;
- (k) providing for the admission of persons from outside Ontario, and prescribing fees payable by such persons in respect of any program of instruction and the manner of payment thereof;
- (l) providing for the incorporation of schools established under section 14 with such colleges. 1965, c. 28, s. 1, *part*; 1968-69, c. 24, s. 5.

(8) No regulation made under subsection 7 applies to a university or to programs of instruction given by a university in such colleges. 1965, c. 28, s. 1, *part*. Application of regulations

**16.**—(1) The Ontario School for the Deaf for the education and instruction of the deaf and partially deaf is continued under the administration of the Minister. Continuation of School for Deaf;

(2) The Ontario School for the Blind for the education and instruction of the blind and partially blind is continued under the administration of the Minister. School for Blind

(3) Subject to the approval of the Lieutenant Governor in Council, the Minister may establish, maintain and operate one or more additional schools for the deaf or schools for the blind and shall designate the name of each school. Additional schools

Regulations  
for School  
for the Deaf  
or Blind

(4) Without restricting the generality of section 12, the Minister, subject to the approval of the Lieutenant Governor in Council, may make regulations with respect to the said schools,

- (a) prescribing the terms and conditions upon which pupils may,
  - (i) be admitted to, and remain in, a school, and
  - (ii) be discharged from a school;
- (b) authorizing the Minister to appoint a committee to hear and determine any question concerning the eligibility for admission of an applicant;
- (c) prescribing the fees, if any, that shall be paid in respect of pupils or any class or classes thereof;
- (d) authorizing the payment of part or all of the transportation costs of pupils whose parents or guardians reside in Ontario, and fixing the maximum amount that may be paid;
- (e) prescribing the manner in which pupils shall dress while attending a school;
- (f) authorizing a superintendent to specify the type and minimum amount of clothing that a parent or guardian shall provide for a pupil;
- (g) requiring a parent or guardian to deposit a sum of money with the bursar of a school for the purpose of defraying the personal incidental expenses of a pupil, and fixing the amount of the deposit;
- (h) authorizing a superintendent to dismiss a pupil at any time for,
  - (i) misconduct or failure to make satisfactory progress in a school, or
  - (ii) serious or continued ill-health as certified by the duly qualified medical practitioner of the school;
- (i) authorizing the Minister to provide training for teachers in courses leading to a Certificate as Teacher of the Deaf or a Certificate as Teacher of the Blind.

Expenses

(5) The cost of the establishment, maintenance and conduct of the said schools shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 91, s. 15.

College of  
education

**17.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

- (a) establish, maintain and conduct colleges of education for the professional training and instruction of teachers; or
- (b) enter into an agreement with a university providing for the establishment, maintenance and conduct of such

college of education by the university, upon such terms and conditions as the Minister and the university may agree upon,

and may enter into arrangements for the use of any elementary or secondary school for practice teaching purposes or for the services of teachers in any secondary school as lecturers or instructors in the college.

(2) The cost of the establishment, maintenance and conduct of a college of education shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 94, s. 16. Expenses

**18.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may, Teachers' colleges, etc.

(a) establish, maintain and conduct teachers' colleges and summer and winter courses for the training and instruction of teachers; and

(b) enter into an agreement with any university or college providing for the establishment, maintenance and conduct of a teachers' college by the university or college, upon such terms and conditions as the Minister and the university or college may agree upon.

(2) The cost of the establishment, maintenance and conduct of teachers' colleges and summer and winter courses shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 94, s. 17. Expenses

**19.**—(1) The Minister may establish, maintain and conduct camps for leadership training. Leadership training camps

(2) The cost of the establishment, maintenance and conduct of leadership training camps shall be payable out of moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 94, s. 18. Expenses

**20.**—(1) No private school shall be operated in Ontario unless it is registered in accordance with this section. Registration of private schools

(2) Every private school shall be registered with the Department on or before the 1st day of September in each year. 1961-62, c. 31, s. 2 (1, 2), *amended*. Time for registration

(3) Application for registration shall be in such form and with such particulars as the Minister may require. Application

(4) Where a private school is operated in contravention of subsection 1, Offence to operate private school without registration

(a) all persons concerned in the management of such school are severally guilty of an offence and on summary conviction are liable; or



- (b) where the school is operated by a corporation, the corporation is guilty of an offence and on summary conviction is liable,

to a fine of not more than \$25 for every day such school is operated in contravention of subsection 1.

Return

(5) The principal, headmaster or person in charge of a private school shall make a return to the Department furnishing such statistical information regarding enrolment, staff, courses of study and other information as and when required by the Minister, and any such person who fails to make such return within sixty days of the request of the Minister is guilty of an offence and on summary conviction is liable to a fine of not more than \$100. 1961-62, c. 31, s. 2 (3-5).

Inspection  
of school

(6) The Minister may direct one or more supervisory officers to inspect a private school, in which case each such supervising officer may enter the school at all reasonable hours and conduct an inspection of the school and any records or documents relating thereto, and every person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1961-62, c. 31, s. 2 (6), *amended*.

Inspection  
on request

(7) The Minister may, on the request of any person operating a private school, provide for inspection of the school in respect of the qualifications of the teachers and the standard of instruction in the subjects of grades 11 and 12 of the course or courses leading to the secondary school graduation diploma and may determine and levy a fee for this service.

Offence  
for false  
statement

(8) Every person who knowingly makes a false statement in an application for registration or an information return under this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. 1961-62, c. 31, s. 2 (7, 8).

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CHAPTER 112

The Department of Energy and  
Resources Management Act

1. In this Act,

Interpre-  
tation

- (a) “Department” means the Department of Energy and Resources Management;
- (b) “Minister” means the Minister of Energy and Resources Management. R.S.O. 1960, c. 95, s. 1; 1964, c. 21, s. 2.

2.—(1) The department of the public service known as the Department of Energy and Resources Management is continued. 1964, c. 21, s. 3, *amended*.

Department  
continued

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1960, c. 95, s. 2 (2).

Minister  
to have  
charge

3.—(1) A deputy minister of the Department may be appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 95, s. 3 (1)

Deputy  
minister

(2) Such officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Department shall be appointed under *The Public Service Act*. R.S.O. 1960, c. 95, s. 3 (2); 1964, c. 21, s. 4.

Staff  
R.S.O. 1970,  
c. 386

4. Notwithstanding any other Act, the Lieutenant Governor in Council may assign the administration of any Act to the Minister, and the Minister is responsible for the administration of any Act so assigned and may exercise the powers and shall preform the duties of the minister named in any Act so assigned. R.S.O. 1960, c. 95, s. 4.

Assignment  
of Acts to  
Minister

5. In addition to the responsibilities that are assigned to the Minister under section 4, the Minister shall perform such functions and duties as are assigned to him from time to time by the Lieutenant Governor in Council. R.S.O. 1960, c. 95, s. 5.

Additional  
functions

6. The expenses of the Department in carrying out its objects shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 95, s. 6.

Expenses



CHAPTER 113

The Department of Financial and  
Commercial Affairs Act

1. In this Act,

Interpre-  
tation

- (a) “Department” means the Department of Financial and Commercial Affairs;
- (b) “Deputy Minister” means the Deputy Minister of Financial and Commercial Affairs;
- (c) “Director” means the Director of the Consumer Protection Division of the Department;
- (d) “Minister” means the Minister of Financial and Commercial Affairs;
- (e) “Registrar” means the Registrar under an Act administered by the Minister, other than *The Loan and Trust Corporations Act*;
- (f) “Tribunal” means The Commercial Registration Appeal Tribunal established under section 7. 1968-69, c. 25, s. 1.

R.S.O. 1970,  
c. 254

2. The department of the public service known as the Department of Financial and Commercial Affairs is continued. 1966, c. 41, s. 2, *amended*.

Department  
continued

3. The Minister shall preside over and have charge of the Department. 1966, c. 41, s. 3.

Minister  
to have  
charge

4. The Minister is responsible for the administration of this Act, any Acts that are assigned to him by the Legislature or by the Lieutenant Governor in Council, and the following Acts:

Minister's  
Acts

- 1. *The Bailiffs Act.*
- 2. *The Collection Agencies Act.*
- 3. *The Credit Unions Act.*
- 4. *The Deposits Regulation Act.*
- 5. *The Insurance Act.*
- 6. *The Investment Contracts Act.*
- 7. *The Loan and Trust Corporations Act.*
- 8. *The Marine Insurance Act.*

R.S.O. 1970,  
c. 38  
R.S.O. 1970,  
c. 71  
R.S.O. 1970,  
c. 96  
R.S.O. 1970,  
c. 127  
R.S.O. 1970,  
c. 224  
R.S.O. 1970,  
c. 226  
R.S.O. 1970,  
c. 254  
R.S.O. 1970,  
c. 260



R.S.O. 1970,  
c. 278

9. *The Mortgage Brokers Act.*

R.S.O. 1970,  
c. 360

10. *The Prepaid Hospital and Medical Services Act.*

R.S.O. 1970,  
c. 401

11. *The Real Estate and Business Brokers Act.*

R.S.O. 1970,  
c. 426

12. *The Securities Act.*

R.S.O. 1970,  
c. 475

13. *The Used Car Dealers Act.* 1966, c. 41, s. 4.

Assignment  
of Acts to  
Minister

**5.** The Lieutenant Governor in Council may assign the administration of any Act to the Minister, in which case the Minister may exercise the powers and shall perform the duties of the minister named in the Act so assigned so long as he administers such Act. 1966, c. 41, s. 7.

Assignment  
of Minister's  
Acts to  
other  
ministers

**6.** The Lieutenant Governor in Council may assign the administration of any Act that is being administered by the Minister to any other minister, in which case such other minister may exercise the powers and shall perform the duties of the minister named in the Act so assigned. 1966, c. 41, s. 8.

Commercial  
Registration  
Appeal  
Tribunal

**7.—(1)** There shall be a tribunal to be known as The Commercial Registration Appeal Tribunal composed of such members as are appointed under subsections 3 and 4.

Duties

(2) The Tribunal shall,

(a) advise the Minister on consumer affairs; and

(b) hold such hearings and perform such other duties as are assigned to it by or under any Act or regulation.

Members

(3) The Lieutenant Governor in Council shall appoint six members of the Tribunal and shall appoint one of such members, who shall be a full-time member, as chairman and may appoint one or more other such members as vice-chairmen.

Idem

(4) The Lieutenant Governor in Council may, after consultation with organizations or other bodies representative of the industries required to be registered under any Act administered by the Minister, appoint a panel composed of persons engaged in each of such industries, who shall be members of the Tribunal.

Remunera-  
tion and  
expenses

(5) Each member of the Tribunal, other than a full-time member, shall be paid his reasonable and necessary expenses incurred in attending meetings and in the transaction of the business of the Tribunal and such remuneration as is fixed by the Lieutenant Governor in Council.

Quorum

(6) Subject to subsection 7, three members of the Tribunal, one of whom shall be the chairman or vice-chairman, constitute a quorum and may exercise all the powers of the Tribunal notwithstanding any vacancy in the membership.

(7) Where the Tribunal holds a hearing, at least one of the members shall be a person appointed under subsection 4 engaged in the industry governed by the Act under which the hearing is held. Representative of industry

(8) The chairman shall have general supervision and direction over the conduct of the affairs of the Tribunal, and shall arrange the sittings of the Tribunal and assign members to conduct hearings as circumstances require. Duties of chairman

(9) The chairman, with the approval of the Minister, may retain experts to advise the Tribunal in respect of any particular matter coming before it. Experts

(10) The Tribunal shall prepare and periodically publish a summary of its decisions and the reasons therefor. 1968-69, c. 25, s. 2, *part.* Publishing reports

(11) The Lieutenant Governor in Council may appoint a Registrar for the Tribunal who shall perform such duties as are assigned to him under this or any other Act or by the chairman of the Tribunal. Registrar of the Tribunal

(12) The Registrar for the Tribunal and every member of the Tribunal have power to administer oaths and affirmations for the purpose of any of its proceedings. 1970, c. 118, s. 1. Administration of oaths

**8.** No action or other proceeding for damages shall be instituted against the Director, any member of the Tribunal or any Registrar, or anyone acting under the authority of such Director, member or Registrar, for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty. 1968-69, c. 25, s. 2, *part.* Protection from personal liability

**9.—(1)** Where a vacancy occurs in the office of Director or Registrar, or if the Director or a Registrar is unable to carry out his duties because of absence or illness, the Deputy Minister may appoint in writing an official of the Department to act as Director or Registrar until the Director or Registrar is duly appointed or returns to duty, but an appointment under this subsection shall not be made for a period of longer than six months. Interim appointments

(2) Where a vacancy occurs in the office of chairman of the Tribunal or the chairman is unable to carry out his duties because of absence or illness, the Minister may appoint in writing a member of the Tribunal appointed under subsection 3 of section 7 to act as chairman until the chairman is duly appointed or returns to duty, but an appointment under this subsection shall not be made for a period of longer than six months. 1968-69, c. 25, s. 2, *part.* Idem

Officers  
and staff  
R.S.O. 1970,  
c. 386

**10.** Such officers, clerks and servants may be appointed or transferred under *The Public Service Act* as are considered necessary from time to time for the proper conduct of the business of the Department. 1966, c. 41, s. 9.

Advisory  
Committee

**11.—(1)** There shall be a committee of not more than nine members to be known as the Financial and Commercial Affairs Advisory Committee, the members of which shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure.

Chairman

(2) The Lieutenant Governor in Council may designate one of the members to be chairman of the Advisory Committee.

Meetings

(3) The Advisory Committee shall meet at the call of the Minister.

Function

(4) The Advisory Committee shall, when requested by the Minister, consult with and advise the Minister on financial, commercial and related matters.

Remunera-  
tion

(5) The Lieutenant Governor in Council may provide remuneration to each member of the Advisory Committee.

Expenses

(6) Each member is entitled to his reasonable and necessary expenses for attending meetings and in the transaction of the business of the Advisory Committee. 1967, c. 21, s. 1.

Expenses  
of Department

**12.** The expenses of the Department shall be paid out of the moneys appropriated therefor by the Legislature. 1966, c. 41, s. 10 (1), *amended*.

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CHAPTER 114

The Department of Health Act

1. In this Act,

Interpre-  
tation

- (a) “Department” means the Department of Health;
- (b) “Deputy Minister” means the Deputy Minister of Health;
- (c) “Minister” means the Minister of Health. 1968-69, c. 26, s. 1.

2.—(1) The department of the public service known as the Department of Health is continued.

Department  
continued

(2) The Minister shall preside over and have charge of the Department.

Minister  
to have  
charge

(3) The Deputy Minister shall be the chief medical officer for Ontario and he shall perform such duties as are assigned to him by the Lieutenant Governor in Council or the Minister.

Deputy  
Minister

(4) Such officers, clerks and servants may be appointed under *The Public Service Act* as are required from time to time for the proper conduct of the business of the Department. 1968-69, c. 26, s. 2.

Staff  
R.S.O. 1970,  
c. 388

3. The Minister is responsible for the administration of this Act and any other Acts that are assigned to him by the provisions thereof or by the Lieutenant Governor in Council. 1968-69, c. 26, s. 3.

Administra-  
tion of Acts

4.—(1) The Minister shall,

Duties of  
Minister

- (a) advise the Government in respect of the health of the people of Ontario; and
- (b) oversee and promote the health and the physical and mental well-being of the people of Ontario.

(2) The Minister in exercising his powers and carrying out his duties and functions under this Act,

Idem

- (a) shall inquire into and determine the health facilities, services and personnel required to meet the health needs of the people of Ontario;
- (b) may recommend to the Government the methods and programs by which the health needs of the people of Ontario can be met;



- (c) shall promote and assist in the development of adequate health resources, both human and material, in Ontario; and
- (d) may initiate or promote research and planning studies into matters relating to the health needs of Ontario. 1968-69, c. 26, s. 4.

Agreements  
for provision  
of health  
facilities,  
etc.

**5.** The Minister, with the approval of the Lieutenant Governor in Council, may on behalf of the Government of Ontario make agreements with municipalities or other persons or corporations respecting the provision of health facilities, services or personnel referred to in clause *a* of subsection 2 of section 4. 1968-69, c. 26, s. 5.

Grants

**6.** The Minister may, out of the moneys appropriated by the Legislature therefor,

- (a) make grants to universities and any non-profit organizations for research and training of persons for the health sciences field in such amounts and upon such terms and conditions as the regulations prescribe;
- (b) provide bursaries and loans for educational and training purposes in respect of health to such persons, in such amounts and upon such terms and conditions as the regulations prescribe;
- (c) make grants for developing health resources to such persons and organizations and upon such terms and conditions as the regulations prescribe; and
- (d) convene conferences and conduct seminars and educational programs respecting health matters. 1968-69, c. 26, s. 6.

Ontario  
Council  
of Health

**7.—(1)** There shall be a senior advisory body to the Government and to the Minister on health matters, known as the Ontario Council of Health, consisting of the Deputy Minister who shall be chairman and such other persons numbering not fewer than sixteen, as are appointed members by the Lieutenant Governor in Council.

Duties

(2) It is the duty of the Council to advise the Government and the Minister on health matters and needs of the people of Ontario and to perform such other duties as are referred to it by the Minister or the Lieutenant Governor in Council.

Appoint-  
ment of  
advisory  
committees

(3) The Lieutenant Governor in Council or the Minister may appoint committees to perform such advisory functions as are considered necessary or desirable in order to assist the Minister in the discharge of his duties. 1968-69, c. 26, s. 7.

**8.** The Minister may,

- (a) collect such information and statistics respecting health resources, facilities and services and any other matters relating to the health needs or conditions affecting the public as are considered necessary or advisable; and
- (b) publish any information collected under clause a. 1968-69, c. 26, s. 8.

Statistics  
and  
information

**9.** The Minister after the close of each year shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Department and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1968-69, c. 26, s. 9.

Annual  
report

**10.** After this section comes into force, all annual reports required to be submitted to the Lieutenant Governor, the Lieutenant Governor in Council or the Assembly by the Minister or an official of the Department under any other Act shall be deemed to be included in the report submitted under section 9 and need not be submitted in accordance with such other Act. 1968-69, c. 26, s. 10.

Deemed to  
include  
other  
reports

**11.** The Lieutenant Governor in Council may make regulations providing for the payment of grants, bursaries and loans for the purposes of section 6. 1968-69, c. 26, s. 11.

Regulations

**12.** Sections 9 and 10 come into force on a day to be named by the Lieutenant Governor by his proclamation. 1968-69, c. 26, s. 12 (2).

Commence-  
ment of  
sections  
9 and 10

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CHAPTER 115

The Department of Highways Act

1. In this Act,

Interpre-  
tation

- (a) “Department” means the Department of Highways;
- (b) “Minister” means the Minister of Highways. R.S.O. 1960, c. 96, s. 1.

2.—(1) The department of the public service known as the Department of Highways is continued.

Department  
continued

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1960, c. 96, s. 2.

Minister  
to have  
charge

3. The Minister is responsible for the administration of this Act and the Acts that are assigned or transferred to him by the Legislature or by the Lieutenant Governor in Council. R.S.O. 1960, c. 96, s. 3.

Adminis-  
tration of  
Acts

4. Contracts respecting any work or property under the control of the Department that are entered into by the Minister or by any other person duly authorized to enter into them enure to the benefit of the Crown and may be enforced as if entered into with the Crown. R.S.O. 1960, c. 96, s. 4.

Enforce-  
ment of  
contracts

5. Every action or other proceeding for the enforcement of a contract, for the recovery of damages for a tort or breach of contract, or for the trial of a right, in respect of real or personal property under the control of the Department, shall be instituted in the name of the Minister of Justice and Attorney General. R.S.O. 1960, c. 96, s. 5, *amended*.

Who may  
bring  
action

6. The Minister may require a person having possession of a map, plan, specification, estimate, report or other paper, book, drawing, instrument, model, contract, document, record or thing relating to a work under the control of the Department, and not being private property, to deliver it without delay to the Department. R.S.O. 1960, c. 96, s. 6.

Possession  
of maps,  
etc.,  
relating to  
highways







CHAPTER 116

The Department of Justice Act

1. In this Act,

Interpre-  
tation

- (a) “Department” means the Department of Justice;
- (b) “Minister” means the Minister of Justice and Attorney General. 1968-69, c. 27, s. 1.

2.—(1) The department of the public service known as the Department of Justice is continued.

Depart-  
ment  
continued

(2) The Minister shall preside over and have charge of the Department. 1968-69, c. 27, s. 2.

Minister  
to have  
charge

3.—(1) The Lieutenant Governor in Council shall appoint a Deputy Minister of Justice and Deputy Attorney General who shall be the deputy head of the Department.

Deputy  
Minister

(2) Such officers, clerks and servants may be appointed under *The Public Service Act* as are required from time to time for the proper conduct of the business of the Department. 1968-69, c. 27, s. 3.

Staff  
R.S.O. 1970,  
c. 386

4. The moneys required for the purposes of the Department shall be paid out of the moneys appropriated therefor by the Legislature. 1968-69, c. 27, s. 4.

Moneys  
required by  
Depart-  
ment

5. The Minister,

Functions

- (a) is the Law Officer of the Executive Council;
- (b) shall see that the administration of public affairs is in accordance with the law;
- (c) shall superintend all matters connected with the administration of justice in Ontario;
- (d) shall perform the duties and have the powers that belong to the Attorney General and Solicitor General of England by law or usage, so far as those duties and powers are applicable to Ontario, and also shall perform the duties and have the powers that, up to the time of the *British North America Act, 1867* came into effect, belonged to the offices of the Attorney General and Solicitor General in the provinces of Canada and Upper Canada and which, under the provisions of that Act, are within the scope of the powers of the Legislature;

- (e) shall advise the Government upon all matters of law connected with legislative enactments and upon all matters of law referred to him by the Government;
- (f) shall advise the Government upon all matters of a legislative nature and superintend all Government measures of a legislative nature;
- (g) shall advise the heads of the departments and agencies of Government upon all matters of law connected with such departments and agencies;
- (h) shall conduct and regulate all litigation for and against the Crown or any department or agency of Government in respect of any subject within the authority or jurisdiction of the Legislature;
- (i) shall superintend all matters connected with judicial, registry and land titles offices;
- (j) shall perform such other functions as are assigned to him by the Legislature or by the Lieutenant Governor in Council. 1968-69, c. 27, s. 5.

Designation  
of depart-  
mental  
legal  
officers as  
employees of  
Department

**6.** The Lieutenant Governor in Council may designate any employee in any department or agency of Government who is a member of the bar of Ontario to be an employee of the Department and thereupon such employee becomes an employee of the Department. 1968-69, c. 27, s. 6.

Annual  
report

**7.** The Minister after the close of each year shall submit to the Lieutenant Governor in Council an annual report upon the affairs of the Department and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1968-69, c. 27, s. 7.

Deemed to  
include  
other  
reports

**8.—(1)** After this subsection comes into force, all annual reports required to be submitted to the Lieutenant Governor, the Lieutenant Governor in Council or the Assembly by the Minister or an official of the Department under any other Act shall be deemed to be included in the report submitted under section 7 and need not be submitted in accordance with such other Act. 1968-69, c. 27, s. 8.

Commence-  
ment  
of subs. 1

**(2)** Subsection 1 does not come into force until a day to be named by the Lieutenant Governor by his proclamation.

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CHAPTER 117

The Department of Labour Act

- 1.** In this Act,

  - (a) “Board” means the Industry and Labour Board;
  - (b) “Department” means the Department of Labour;
  - (c) “Deputy Minister” means the Deputy Minister of Labour;
  - (d) “inspector” means an inspector appointed under this Act or any other Act or regulation administered by the Department;
  - (e) “Minister” means the Minister of Labour. R.S.O. 1960, c. 97, s. 1.

Interpre-  
tation
- 2.—**(1) The department of the public service known as the Department of Labour is continued.

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1960, c. 97, s. 2.

Department  
continued

Minister  
to have  
charge
- 3.** The Lieutenant Governor in Council may appoint a Deputy Minister and such other officers, clerks and servants in the Department as are considered necessary or expedient. R.S.O. 1960, c. 97, s. 3.

Deputy  
Minister  
and staff
- 4.** The Deputy Minister shall perform such duties as are assigned to him by the Lieutenant Governor in Council or by the Minister. R.S.O. 1960, c. 97, s. 4.

Duties of  
Deputy  
Minister
- 5.** The Minister is responsible for the administration of this Act and the Acts that are assigned or transferred to him by the Legislature or by the Lieutenant Governor in Council. R.S.O. 1960, c. 97, s. 5.

Adminis-  
tration of  
Acts
- 6.** The Department shall,

  - (a) collect such statistical and other information respecting trades and industries in Ontario as is considered necessary or expedient from time to time;
  - (b) ascertain the localities in which mechanics, artisans or workmen in any particular trade or industry are required and, wherever practicable, assist in supplying the demand for such work or labour;

Duties of  
Department  
statistics  
and  
information

distribution  
of employ-  
ment



- |  |  |
|--|--|
| sanitary and other conditions          | (c) ascertain and report upon sanitary and other conditions relating to the health, comfort, and well-being of the industrial classes;   |
| employment bureaus                     | (d) establish and maintain in the various centres of population throughout Ontario employment offices and similar agencies for obtaining suitable employment for persons, both male and female, in any of the trades, occupations, or professions, and for procuring workers for employment in any of the trades, occupations or professions, and, subject to <i>The Employment Agencies Act</i> , to regulate all voluntary, private or municipal employment bureaus; |
| R.S.O. 1970, c. 146                    |  |
| wages                                  | (e) ascertain and report upon the rates of wages paid to employees in the various trades and industries carried on in Ontario;   |
| new industries in Ontario              | (f) inquire and report as to the establishment of new industries in Ontario in any case where, by reason of the production of raw material for such industry in Ontario or the immigration of persons skilled in the particular industry or other circumstances, it appears that such industry can profitably be carried on;   |
| reporting upon laws in other countries | (g) inquire into, consider and report upon the operation of laws in force in other parts of the Commonwealth and in foreign countries, having for their objects the protection, technical training and welfare of the industrial classes, and make such recommendations and suggestions thereon as are considered advisable;   |
| changes in the law                     | (h) consider and report upon any petition for or suggestion of a change in the law of Ontario relating to labour and wages or any matter affecting the industrial classes, presented or made by any trades and labour council or other organization representing those classes or by any other person. R.S.O. 1960, c. 97, s. 6.   |

Annual  
report

**7.—**(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department.

Idem

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 97, s. 7, *amended*.

Industry  
and Labour  
Board

**8.—**(1) The Board shall consist of not more than three members appointed by the Lieutenant Governor in Council, one of whom shall be designated as chairman, and all of whom shall be officers of the Department.

(2) The Board is a body corporate and, with the approval of the Lieutenant Governor in Council, may pass by-laws and regulations governing its proceedings.

By-laws  
of Board

(3) The Board shall administer, enforce and carry out any Act in which the Board is designated for the purpose in such Act or that is assigned to it by the Lieutenant Governor in Council. R.S.O. 1960, c. 97, s. 8.

Powers of  
Board

**9.**—(1) The Deputy Minister may require from employers, workmen and other persons such information concerning rates of wages, hours of work, regularity of employment, and other matters as he considers necessary for the proper carrying out of this Act or of any of the Acts or regulations administered by the Department.

Powers of  
Deputy  
Minister as  
to obtaining  
information

(2) For the purpose of procuring such information or for the purpose of assisting the Department in carrying out any of the provisions of section 6, the Minister may authorize the Board or any member or members of the Board to conduct a public inquiry, and the Board or member or members thereof acting under such authority has, for the purpose of conducting such public inquiry, all the powers, rights and privileges that may be conferred upon a commissioner under *The Public Inquiries Act*.

Public  
inquiries  
by board

R.S.O. 1970,  
c. 379

(3) Any officer or inspector of the Department, acting under the written authority of the Deputy Minister, has right of access at all reasonable hours to any office, factory, shop, place of business or other premises for the purpose of carrying out this Act or any Act or regulations administered by the Department.

Right of  
access

(4) Every person who refuses to furnish any return or information that may be lawfully required, or who hinders or obstructs any officer or inspector in the performance of his duties under this Act or any of the Acts or regulations administered by the Department is guilty of an offence and on summary conviction is liable to a fine of \$20.

Offence

(5) Every person who falsifies his records or returns or supplies incomplete or untrue information is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$300. R.S.O. 1960, c. 97, s. 9.

Falsifying  
records

**10.**—(1) There shall be a council to be known as the Labour Safety Council of Ontario consisting of three or more persons as the Lieutenant Governor in Council may determine.

Labour  
Safety  
Council of  
Ontario

(2) The Lieutenant Governor in Council shall appoint the members of the Labour Safety Council of Ontario and shall designate one of the members as chairman.

Appointment  
of  
members

## Vacancies

(3) Where a vacancy occurs in the membership of the Labour Safety Council of Ontario from any cause, it may be filled by the Lieutenant Governor in Council. 1961-62, c. 32, s. 1, *part*.

## Remuneration

(4) The members of the Labour Safety Council of Ontario may be paid remuneration and expenses at such rates as may be determined by the Lieutenant Governor in Council, out of the moneys appropriated by the Legislature for the purpose. 1961-62, c. 3, s. 1, *part, amended*.

## Function

(5) It is the function of the Labour Safety Council of Ontario, upon the request of the Minister, to inquire into and advise him upon any matter respecting the safety of workers, and, without restricting the generality of the foregoing, to inquire into and advise him upon any of the laws respecting the safety of workers with a view to the improvement, clarification or extension of the existing laws or the enactment of new laws, or to inquire into and advise him upon any matter designed to co-ordinate the functions of all bodies concerned with the safety of workers. 1961-62, c. 32, s. 1, *part*.

## Regulations for protection of workmen

**11.**—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make such regulations as are considered necessary for the safety and protection of persons engaged,

- (a) on work in the construction of which men are employed in compressed air;
- (b) in the construction of tunnels and caissons; and
- (c) in the construction of coffer dams,

and may make regulations excluding any class of work from the application of any or all of the regulations made under this subsection, and providing for and prescribing the fees to be paid for inspection services furnished in connection with any work mentioned in this subsection. R.S.O. 1960, c. 97, s. 10 (1); 1962-63, c. 33, s. 1 (1-3), *amended*.

## Regulations re ionizing radiation

(2) The Lieutenant Governor in Council may make regulations for the protection of the health and safety of persons from the effects of ionizing radiation used in industry or commerce,

- (a) classifying sources of ionizing radiation;
- (b) respecting the processing, installation, use, movement, handling, maintenance, storage or disposal of sources of ionizing radiation or any class of them;
- (c) requiring notice of any matter respecting the processing, installation, use, movement, handling, maintenance, storage or disposal of sources of ionizing radiation or any class of them;

- (d) requiring drawings and specifications showing protective measures concerning sources of ionizing radiation;
- (e) requiring physicians or other persons to furnish to a designated person information concerning the exposure of any person to ionizing radiation in excess of a prescribed maximum;
- (f) respecting the medical examination of persons who have or may come in contact with ionizing radiation, prescribing by whom the cost of the examination is to be borne, and requiring a report of the examination to a designated person;
- (g) requiring and regulating the supervision of the processing, use, installation, movement, handling, maintenance, storage or disposal of sources of ionizing radiation, or any class of them, by qualified persons and prescribing their qualifications;
- (h) providing for and requiring the registration of any specified persons engaged in the processing, installation, use, movement, handling, maintenance, storage or disposal of a source of ionizing radiation, and prescribing the fees therefor;
- (i) defining "vicinity" when used with respect to sources of ionizing radiation or any class of them, and regulating or prohibiting use of the vicinity of sources of ionizing radiation;
- (j) designating classes of persons and respecting the employment of any person or class of persons in the processing, installation, use, movement, handling, maintenance, storage or disposal of sources of ionizing radiation, or in the vicinity of sources of ionizing radiation;
- (k) excluding any class of sources of ionizing radiation or any premises from the application of any or all of the regulations made under this section;
- (l) prescribing forms and providing for their use. R.S.O. 1960, c. 97, s. 10 (2); 1962-63, c. 33, s. 1 (4-6).

(3) Regulations made under this section shall be deemed to be in addition to and not in contradiction of or in substitution for regulations made under any other Act dealing with the safety of workmen and employees. R.S.O. 1960, c. 97, s. 10 (3).

**12.—**(1) Where an inspector is of the opinion that any work on any undertaking or any part thereof to which any Act or regulation administered by the Department applies is being done in a manner or under conditions that are dangerous to life or property, he may, by written order to any person responsible for

Other  
regulations  
not inter-  
fered with

Stop-work  
orders



or in charge of the work, require the immediate cessation of the work or any part thereof that he considers dangerous.

Idem

(2) Where an inspector has made an order under subsection 1, he may permit such work as may be done safely and that is necessary to eliminate the dangerous condition. 1962-63, c. 33, s. 2.

Offences

**13.** Every person who contravenes any of the provisions of this Act or the regulations or any notice or direction made thereunder is guilty of an offence and on summary conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than twelve months, or to both. R.S.O. 1960, c. 97, s. 12.

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## CHAPTER 118

## The Department of Municipal Affairs Act

## PART I

**1.** In this Act,Interpre-  
tation

- (a) “Board” means the Ontario Municipal Board;
- (b) “Department” means the Department of Municipal Affairs;
- (c) “Deputy Minister” means the Deputy Minister of Municipal Affairs;
- (d) “local board” means a school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof;
- (e) “Minister” means the Minister of Municipal Affairs;
- (f) “municipality” means the corporation of a county, city, town, village, township or improvement district and includes a local board thereof and a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;
- (g) “public utility” means a waterworks, gasworks, including works for the transmission, distribution, and supply of natural gas, electrical power or energy works, or system for the generation, transmission or distribution of electric light, heat or power, a telephone system, a street or other railway system, a bus or other public transportation system or any other works or system for supplying the inhabitants generally with necessities or conveniences that are vested in or owned, controlled or operated by a municipality or municipalities or by a local board. R.S.O. 1960, c. 98, s. 1.

Department  
continued

**2.—**(1) The department of the public service known as the Department of Municipal Affairs is continued.

Minister  
to have  
charge

(2) The Minister shall preside over and have charge of the Department and has power to act for and on behalf of the Department.

Deputy  
Minister

(3) A Deputy Minister of the Department shall be appointed by the Lieutenant Governor in Council.

Staff

(4) The Lieutenant Governor in Council may also appoint such officers, clerks and servants as from time to time are considered necessary for the proper conduct of the business of the Department. R.S.O. 1960, c. 98, s. 2.

Jurisdiction

R.S.O. 1970,  
c. 323

**3.—**(1) The Department shall administer all Acts in respect of municipal institutions and affairs, including *The Ontario Municipal Board Act*.

Other  
statutes

(2) The Department shall administer such other Acts as are specified in this Act or are from time to time designated by the Lieutenant Governor in Council.

Municipal  
affairs

(3) The Department shall exercise general oversight over municipal institutions and their administration and such special oversight and powers in relation thereto as are provided in or under the authority of this or any other general or special Act, but nothing herein shall be deemed to divest the Board of any jurisdiction or powers conferred on it by this or any other Act. R.S.O. 1960, c. 98, s. 3.

Housing  
Acts

1919, c. 54,  
1920, c. 84

**4.** *The Ontario Housing Act, 1919 and The Municipal Housing Act, 1920* and amendments thereto, respectively, shall be administered by the Department and, for the purposes of such Acts and the regulations made thereunder, the Deputy Minister shall hereafter be the director named and referred to in such Acts. R.S.O. 1960, c. 98, s. 4.

Annual  
report

**5.—**(1) The Minister shall, after the close of each year, file with the Provincial Secretary an annual report upon the affairs of the Department.

Tabling

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 98, s. 5.

Powers of  
inquiry

R.S.O. 1970,  
c. 379

**6.** The Deputy Minister and such of the officers of the Department as are authorized by the Lieutenant Governor in Council for any of the purposes of the Department or of any Act that it administers have all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 98, s. 6.

**7.** The Lieutenant Governor in Council may appoint committees composed of one or more persons for any purpose relating to municipal matters. R.S.O. 1960, c. 98, s. 7. Committees

## PART II

**8.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) governing the exercise by the Department of the powers conferred on the Department by clause *j* of section 9;
- (b) prescribing the fees payable for licences under clause *j* of section 9. R.S.O. 1960, c. 98, s. 9.

**9.** The Department may,

- (a) prescribe and regulate the system of estimates, book-keeping and accounting to be adopted by municipalities, and the form of and the manner in which all estimates, books of account, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues and expenditures of municipalities shall be kept, and the manner in which all funds and moneys thereof shall be accounted for; Powers of Department re: municipal accounting
- (b) prescribe the forms, returns, statements and information to be made and furnished by municipalities to the Department, annually, periodically or otherwise, and the times when and by whom they shall be made; municipal returns
- (c) prescribe and regulate the system of auditing of the accounts, registers, records, vouchers, receipts and other books and documents relating to the assets, liabilities, revenues, expenditures, funds and moneys of municipalities and the reports, returns, statements and information to be made and furnished by municipal auditors and otherwise with respect to the performance of their duties; municipal audit
- (d) collect, compile, analyze and record such statistical and other information relating to the financial and other affairs of municipalities as may be useful; compiling statistics, etc.
- (e) prepare and publish statistics, reports, records, bulletins, pamphlets, circulars and other means of disseminating information and advice in relation to municipal affairs as may be useful; publishing reports, etc.
- (f) study, report and advise upon the system of municipal institutions and the government and administration of municipal affairs or upon the government and administration of municipal affairs in any municipality or municipalities; report on municipal government, etc.



incidental  
powers

(g) perform and do all things necessary or incidental to any of the aforesaid purposes;

advisory  
powers

(h) effect improvement generally in the conduct and administration of municipal affairs and, among other things, consult with and assist by advice municipalities, develop proper methods of municipal administration, financing, accounting and audit, collaborate with municipal associations and other bodies and collect, compile and disseminate municipal statistics and information;

powers of  
investigation

(i) inquire at any time into any or all of the affairs, financial and otherwise, of a municipality or local board and hold such hearings and make such investigations in respect thereof as appear necessary or expedient in the interests of such municipality, its ratepayers, inhabitants and creditors, and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of default by any municipality in meeting its obligations;

licensing  
municipal  
auditors

(j) grant upon payment of the prescribed fee a licence to every person whom the Department considers qualified to perform the duties of a municipal auditor and refuse, suspend or revoke any such licence. R.S.O. 1960, c. 98, s. 10; 1965, c. 29, s. 1.

Variations  
in systems  
and forms

**10.** The Department may, with respect to any of the matters mentioned in clauses *a*, *b* and *c* of section 9, prescribe different systems, methods and forms for the several classes of municipalities or for any municipality. R.S.O. 1960, c. 98, s. 11.

Notification  
of provincial  
grants

**11.**—(1) The Department may require each municipality in each year to notify every person whose name appears on its collector's roll, in such manner, form and detail as the Department may require, of all payments estimated to be made by the Province in that year to the municipality and its local boards, including in such estimated payments the amounts, computed in such manner as the Department may require, by which the municipality and any of its local boards benefit by reason of payments by the Province to a metropolitan municipality or a county, or a local board thereof, or to a local board that functions in more than one municipality, and the Department may require the inclusion in the notice of such other information relative to provincial grants and municipal tax levies as it considers advisable.

Withholding  
of grants

(2) Where a municipality fails to comply with any requirement under this section, the Treasurer of Ontario may withhold any moneys payable to the municipality or any local board thereof until the municipality has complied with such requirement. R.S.O. 1960, c. 98, s. 12.

**12.** The Department may in respect of any municipality or class thereof, notwithstanding any other Act.

(a) prescribe the form of assessment returns, assessment rolls or collector's rolls and the particulars to be set down therein, or combine or vary them from time to time;

Powers re  
assessment  
rolls, tax  
collection  
procedures,  
etc.

(b) order that the tax arrears procedures of this Act shall apply and that the tax sale procedures of *The Municipal Act*, *The Public Schools Act* and *The Secondary Schools and Boards of Education Act* shall not apply, and in such case the use or disposition of land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition are subject to the approval of the Department. R.S.O. 1970, cc. 284, 385, 425  
R.S.O. 1960, c. 98, s. 13; 1962-63, c. 34, s. 1.

**13.** Every municipality and every member of the council or a local board thereof and every officer thereof shall comply with any system, methods or forms prescribed under this Part to be adopted, kept or made by such municipality, local board or by the class of municipalities or local boards of which such municipality or local board is one. R.S.O. 1960, c. 98, s. 14.

Duty of  
members of  
council, local  
boards and  
their officers

**14.** A municipality that has adopted a system of estimates, bookkeeping, accounting or auditing that the Department is satisfied to approve may continue such system until otherwise directed by the Department, and until such time it is not necessary for the municipality to comply with any system prescribed under this Part. R.S.O. 1960, c. 98, s. 15.

Adoption of  
other  
satisfactory  
system of  
accounting,  
auditing,  
etc.

**15.**—(1) All returns required by any Act to be made to the Secretary of the Bureau of Industries or to the Bureau of Municipal Affairs shall be made to the Department.

All returns  
to be made  
to the  
Department

(2) Where in any Act reference is made to the Director of the Bureau of Municipal Affairs, such reference shall be deemed to be made to the Department. R.S.O. 1960, c. 98, s. 16.

Change of  
references

**16.**—(1) The Department, upon its own initiative or whenever requested by any municipality expressed by resolution of its council, or on a petition in writing signed by not less than fifty ratepayers assessed as owners and resident in a municipality, may direct a provincial municipal audit of the financial affairs of the municipality.

Provincial  
municipal  
audit

(2) Any direction given by the Department may extend to an audit of all the financial affairs of a municipality or may be limited to the financial affairs of any local board thereof, or to any

Extent of  
audit

specified phase of such financial affairs or to any specified books, accounts, registers, records, vouchers, receipts, funds, money or financial transactions, kept by or under the charge of any officer of the municipality designated by the Department. R.S.O. 1960, c. 98, s. 17.

General  
inquiry

**17.** The Department upon its own initiative may make an inquiry into any of the affairs of a municipality. 1964, c. 22, s. 1.

Appoint-  
ment of  
auditor

**18.** An audit directed to be made under this Part may be made by any officer of the Department, or by a competent auditor appointed by the Minister, and the officer and person so appointed for the purposes of such audit have all the powers mentioned in section 19. R.S.O. 1960, c. 98, s. 18.

Powers of  
auditor

**19.** For the purposes of any audit, the officer of the Department or other person appointed to make the audit may require the production of all or any books, records and documents that may in any way relate to the affairs of the municipality that are the subject of the audit, and inspect, examine and audit and copy them, and may require any officer of the municipality and any other person to appear before him and give evidence on oath touching any of such affairs, and for such purpose has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 98, s. 19.

R.S.O. 1970,  
c. 379

Report on  
audit

**20.** Upon completion of an audit under this Part, the auditor shall report thereon in writing to the Deputy Minister, who shall forthwith transmit a copy of the report to the municipality. R.S.O. 1960, c. 98, s. 20.

Powers of  
Department  
as a result of  
an audit  
or inquiry

**21.** The Department, as a result of an audit of the affairs of a municipality made under this Part, or as a result of an investigation or inquiry made under any general or special Act, may make such orders as it sees fit requiring the municipality to carry out, put into effect, observe, perform or enforce such matters or things as the audit, investigation or inquiry has disclosed as being necessary or desirable in the interests of the municipality or with respect to the due accounting for, collection or payment of any of its assets, liabilities, revenues, expenditures, funds or money or otherwise in any respect as the order of the Department may provide. 1964, c. 22, s. 2.

Fees for  
audit

**22.** The Department may fix the fees and allowances for expenses payable with respect to any audit of the affairs of a municipality under this Part, and the amount so fixed shall forthwith be paid by the municipality. R.S.O. 1960, c. 98, s. 22.

**23.** Nothing in this Part gives to the Department any jurisdiction with respect to any of the affairs of a municipal utility commission, the exclusive jurisdiction over which is by statute conferred upon The Hydro-Electric Power Commission of Ontario. R.S.O. 1960, c. 98, s. 23.

Exception as to municipal hydro-electric commissions

**24.** Nothing in this Part affects or impairs any security given by an officer of a municipality for the due and faithful performance of the duties of his office, or relieves his sureties from liability in case of his default therein, or relieves any municipality from its duty to appoint competent auditors. R.S.O. 1960, c. 98, s. 24.

Obligations of officers' sureties not affected, etc.

**25.** Where a municipality fails, neglects or refuses to make or provide to the Department any form, return, statement or information prescribed or ordered made under this Part, the Deputy Minister may authorize some person to make and furnish it at the expense of the municipality. R.S.O. 1960, c. 98, s. 25.

Power to obtain returns on failure of municipality to make them

**26.** Any municipality, member of council or of a local board or an officer thereof or any other person guilty of any wilful breach of any of the provisions of this Part or of any order of the Department made thereunder is guilty of an offence and on summary conviction, in addition to any other penalty provided by law, is liable to a fine of not less than \$20 and not more than \$200 and, if a member of a council or a local board, is, upon conviction, disqualified from holding any municipal office for a period of two years. R.S.O. 1960, c. 98, s. 26.

Offence

### PART III

#### SPECIAL JURISDICTION OVER DEFAULTING MUNICIPALITIES

**27.** In this Part,

Interpretation

- (a) "improved land" means a parcel of land separately assessed that has a building thereon, and includes any land in actual use for agricultural purposes, although there is no building thereon;
- (b) "registrar" means the registrar of a registry office;
- (c) "registry office" means the registry office of the registry division for the county or district in which a municipality subject to this Part is situate;
- (d) "sheriff's office" means the office of the sheriff for the county or district in which a municipality subject to this Part is situate;
- (e) "vacant land" means a parcel of land separately assessed that has no building thereon, but does not include any improved land. R.S.O. 1960, c. 98, s. 27.



Special  
municipal  
jurisdiction  
of Board

**28.**—(1) The Board has and may exercise the special jurisdiction and powers conferred by this Part, whenever, upon request of the Department or of a municipality expressed by resolution of its council, or upon request of the creditors of a municipality having claims representing not less than 20 per cent of its indebtedness, including debenture debt, it is satisfied upon inquiry that the municipality,

- (a) has failed to meet and pay any of its debentures or interest thereon when due and after payment thereof has been duly demanded;
- (b) has failed to meet and pay any of its other debts or liabilities when due and default in payment is occasioned from financial difficulties affecting the municipality; or
- (c) has or may become financially involved or embarrassed so that default or unusual difficulty in meeting debts or obligations or in providing adequate funds to meet current expenditures may ensue, or has failed to levy the necessary rates to meet current expenditures.

Partial or  
full inquiry

(2) In the course of an inquiry, the Board may investigate any or all of the affairs of a municipality.

Separate  
school  
board

(3) The Board may exercise such powers with respect to any separate school board of any municipality that has not been made subject to this Part, upon request expressed by resolution of the school board. R.S.O. 1960, c. 98, s. 28.

Power of  
Board to  
vest control  
over  
municipal  
adminis-  
tration in  
Department

**29.**—(1) If upon inquiry the Board is of opinion that the circumstances so warrant or appear to render desirable, it may make such order as it considers proper or necessary to vest in the Department control and charge over the administration of all the affairs of the municipality as set forth in the order and to declare that thereafter and until the Board otherwise determines and orders such municipality is subject to this Part.

Deputy  
Minister  
not to sit  
as member  
of Board

(2) During such time as the Deputy Minister is a member of the Board, he shall not sit as a member thereof with respect to any application or matter before the Board under this Part. R.S.O. 1960, c. 98, s. 29.

Powers of  
Department

**30.**—(1) Except as otherwise provided in this Part, the Department has and may exercise the powers conferred on it by this Part and such additional powers as by any order of the Board or by the terms of any agreement entered into under the authority of this Part may be conferred on it, and may do all things necessary or incidental to the exercise of any such powers.

(2) The jurisdiction and powers to be exercised under this Part by the Department extend to and include not only control over all the affairs of the corporation of the municipality, but also over all the affairs of every local board of the municipality, unless an order made by the Board otherwise expressly declares and directs. R.S.O. 1960, c. 98, s. 30.

Declaration  
as to juris-  
diction of  
Department

**31.** The council or a local board or any creditor dissatisfied with any order of the Department may within five days after the order is transmitted to the head of the municipality, or its clerk or treasurer or, in the case of a local board, to its chairman or secretary, appeal therefrom to the Minister, who may himself dispose finally of the appeal or direct it to be disposed of by the Board. R.S.O. 1960, c. 98, s. 31.

Appeals from  
orders of  
Department

**32.** Where a municipality has become subject to this Part, notice thereof shall be given in *The Ontario Gazette* and in such one or more newspapers, published in or near the municipality and elsewhere, and to such persons and in such form as the Board may direct. R.S.O. 1960, c. 98, s. 32.

Notice to  
be given of  
municipality  
subject  
to this Part

**33.**—(1) When notice has been published in *The Ontario Gazette* that a municipality is subject to this Part, such publication operates as a stay of all actions or proceedings pending against the municipality and as a stay of execution, as the case may be, and thereafter, without leave of the Board, no action or other proceedings against the municipality shall be commenced or continued nor shall a levy be made under a writ of execution against the municipality.

Stay of  
actions  
against  
municipality  
without  
leave of  
Board

(2) Where the commencement or continuance of any action or proceeding or the making of any levy under a writ of execution is prevented or stayed under this section, the time during which such prevention or stay continues shall not be computed for the purposes of any statute or law of limitations until leave of the Board to commence or continue such action or proceeding or make such levy is obtained, but the person having the right of action or to take any proceeding or to make a levy under a writ of execution shall, upon the removal of the prevention or stay, have the same length of time within which to take action or proceeding or make a levy under a writ of execution, as the case may be, as he had when such prevention or stay came into operation, but this subsection does not apply unless application is made to the Board for approval of the continuance or commencement of any such suit, action or proceeding, within the time so limited as aforesaid by statute or law of limitations and such approval is refused.

Suspension  
of operation  
of statutes of  
limitation

(3) Subsection 1 does not apply to a municipality that is subject to this Part after the Board has made an order under clause *b* or *j* of subsection 1 of subsection 36 with respect to the municipality. R.S.O. 1960, c. 98, s. 33.

Where order  
made under  
s. 36 (1) (*b, j*)

Existing  
liens not  
taken away

**34.** Nothing in this Part takes away any lien, hypothec or other charge, if any, in existence and subsisting on the 18th day of April, 1953, with respect to any municipality upon or against any revenue or other asset of the municipality and it continues to exist until it is satisfied and discharged. R.S.O. 1960, c. 98, s. 34.

Control  
exercisable  
by Depart-  
ment

**35.** The Department with respect to the municipality and every local board thereof has control and charge over the exercise by any of them of any of their powers and over the performance by any of them of any of their duties and obligations with respect to,

municipal  
officers

(a) the appointment and dismissal of its officers, employees and servants, and their powers, duties, salaries and remuneration;

revenues  
and ex-  
penditures

(b) the collection, receipt, application and payment of its revenues and expenditures;

sinking  
funds

(c) the keeping, investment, use, application, payment and disposition of all sinking funds and of the moneys belonging thereto and of all rates levied and moneys collected for the purposes of any such sinking fund;

accounting  
and audit

(d) the system of accounting and audit, and the dealing with its assets, liabilities, revenues and expenditures;

estimates

(e) the yearly or other estimates and the form, preparation and completion thereof, and the times when they shall be made;

what esti-  
mates shall  
include

(f) the amounts to be provided for and included in the yearly or other estimates, whether they are to be provided by taxation or otherwise;

rates and  
collection  
thereof

(g) the imposition, rating, levying and collection of all rates, assessments and taxation, the mode and times for collecting them and the allowance of discounts or imposition of penalties thereon, and for the making and return of the collector's roll;

borrowings

(h) the borrowing of moneys for the current expenditures of the corporation until the taxes are collected;

utility rates  
R.S.O. 1970,  
c. 354

(i) subject to *The Power Commission Act*, the rates, rents and charges imposed, levied or collectable for supply or service of any public utility;

licence and  
permit fees

(j) the imposition, charging and collection of all licence, permit or other fees, charges and expenses;

sale of  
assets

(k) the sale or other disposition of any of its assets; and

- (l) without being limited by the foregoing, generally with <sup>general</sup> respect to any matter in any way affecting or pertaining to its affairs and their administration. R.S.O. 1960, c. 98, s. 35.

**36.**—(1) Where a municipality has become subject to this Part, the Board, with respect to the debenture debt and debentures of the municipality and interest thereon and with respect to any other indebtedness thereof, has power to authorize or direct, <sup>Powers of Board with respect to debt</sup>

- (a) the consolidation of the whole or any portion thereof;
- (b) the issue, on such terms and conditions, in such manner and at such times as the Board may approve, of debentures, certificates or other evidences of indebtedness, in substitution and exchange for any outstanding debentures or in payment and satisfaction of the whole or any portion of such other indebtedness, and compulsory acceptance of such debentures, certificates or other evidences of indebtedness in payment and satisfaction of such outstanding debentures or other indebtedness;
- (c) the issue of new debentures to cover any such consolidation;
- (d) the retirement and cancellation of the whole or any portion of the existing debenture debt and outstanding debentures, upon the issue of new debentures to cover them or in exchange therefor;
- (e) the terms, conditions, places and times for exchange of new debentures for outstanding debentures;
- (f) the postponement of or variation in the terms, times and places for payment of the whole or any portion of the debenture debt and outstanding debentures and other indebtedness and interest thereon and variation in the rates of such interest;
- (g) the cancellation, increase, decrease or other variation in the levy and collection of any assessment, rate or taxation, rent or charge imposed to meet, pay and discharge any debenture debt, debentures, or other indebtedness, and interest thereon, and to vary the basis, terms and times of payment thereof;
- (h) the creation and setting aside of sinking funds and special reserves out of any portion of the revenues of the municipality for meeting, paying and discharging its debenture debt, debentures or other indebtedness or any portion thereof or interest thereon;
- (i) the custody, management, investment and application of sinking funds, reserves and surpluses;



- (j) the ratification and confirmation of any agreement, arrangement or compromise entered into with its creditors or any of them respecting its debenture debt, debentures or other indebtedness or any portion thereof and interest thereon;
- (k) any variation, amendment or cancellation of any order made by it under this section or of the terms of any agreement, arrangement or compromise ratified and confirmed by it under this section;
- (l) an interim plan, pending a final order or plan with respect thereto, which may cancel all or any portion of interest in arrear and may alter, modify or compromise the rights of debenture holders or other creditors during any period of time between the date of default and the end of the fifth year following the date of the order of the Board.

## Limitation

(2) The Board shall not make any order under clause *l* of subsection 1 unless creditors, representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of such order.

## Powers of Board with respect to debt

(3) Where a municipality has become subject to this Part, the Board, with respect to the debenture debt and debentures of such municipality and interest thereon and with respect to any other indebtedness thereof, may,

- (a) authorize or direct any municipality, whether or not it has become subject to this Part, to continue to guarantee any such debentures notwithstanding any postponement or variation in the terms, provisions and time of payment thereof, and to guarantee any new debentures issued in substitution and exchange therefor;
- (b) authorize or direct any municipality, whether or not it has become subject to this Part, to assume and pay by the issue of debentures or otherwise a share of any liability in respect of which such municipality may be jointly or jointly and severally liable with any other municipality, which share may be either in full satisfaction of such liability of such municipality or on account thereof, and, if on account, the Board may order that provision be made for further payment in respect thereof;
- (c) summon and enforce the attendance of such persons as the Board thinks fit to summon,

and the Board shall direct that reasonable notice be given of any application under this subsection to every person whose interests it considers to be directly affected thereby and every order made under this subsection is binding upon every such person. R.S.O. 1960, c. 98, s. 36.

**37.** The Board, upon the application of the separate school board of a municipality that has been made subject to this Part or of the separate school board of any other municipality where such board has been made subject to this Part, although the municipality itself has not been made so subject, has power to make orders under and in accordance with the provisions of section 36 with respect to the debenture debt, debentures and other indebtedness of the separate school board and interest thereon. R.S.O. 1960, c. 98, s. 37.

Separate  
school  
boards

**38.**—(1) Where the Board, upon application to it by the Department or the council or a separate school board or any of the creditors of the municipality, intends to exercise any of the powers conferred on the Board under subsection 1 of section 36 or section 37, it shall, before so doing, give or direct that there be given notice of such intention in *The Ontario Gazette* and by such other publication and to such persons and in such manner as the Board considers proper, and such notice shall state the time and place when the matter is to be dealt with by the Board, which time shall be not less than two months after the notice is published in *The Ontario Gazette*.

Publication  
of notice of  
intention to  
exercise  
powers

(2) Subsection 1 does not apply with respect to any matter that is merely incidental to the exercise of any such powers.

Subs. 1  
does not  
apply to  
incidental  
matters

(3) The Board shall not make any order under subsection 1 of section 36 if objection in writing to the making of such order is filed with the Board by creditors representing not less than one-third in amount of the aggregate of the indebtedness of the municipality or separate school board, including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable.

Objection  
to be filed  
with Board

(4) If creditors, representing not less than two-thirds in amount of the aggregate of the indebtedness of the municipality or separate school board including therein debenture indebtedness but excluding therefrom indebtedness in respect of which the municipality or separate school board is not directly but only contingently or collaterally liable, have filed in writing with the Board their approval of the making of any order of the Board under subsection 1 of section 36, it is not necessary that two months elapse as required under subsection 1.

Approval by  
creditors

When matter  
to be varied

(5) When a matter is being dealt with by the Board under this section and the Board intends to vary the terms thereof, it shall, before so doing, give or direct that there be given notice of such intention to such persons and in such manner as the Board considers proper, and such notice shall state the time and place when such variation is to be dealt with by the Board, which time shall not be less than two weeks after the notice. R.S.O. 1960, c. 98, s. 38.

Debenture  
debt not to  
form part of  
debt after  
order of  
Board

**39.** After an order of the Board has been made under section 36, no portion of the debenture debt of the corporation represented by debentures ordered to be cancelled, retired or exchanged forms part of its debt within the meaning of any Act limiting its borrowing powers. R.S.O. 1960, c. 98, s. 39.

Variation or  
cancellation  
of subsisting  
agreements

**40.** The municipality may, with the approval of the Department, enter into agreements with any person with whom the municipality has previously entered into any agreement, contract or obligation which or some term, provision or obligation of which remains in whole or in part or in any manner to be observed, performed or carried out by the municipality, for the variation, amendment or cancellation of any such subsisting agreement, contract or obligation. R.S.O. 1960, c. 98, s. 40.

Department  
to approve  
debenture  
issues

**41.—(1)** Without the approval of the Department first being obtained, the municipality shall not, under any special or general Act, exercise or be required to exercise any of its powers if such exercise will or may require money to be provided by the issue of debentures of the corporation.

Approval of  
debenture  
by-laws

(2) The municipality may, with the approval of the Department, pass by-laws providing for the issue of debentures and to authorize the hypothecation or sale thereof, but no such by-law has any force and effect until approved by the Department. R.S.O. 1960, c. 98, s. 41.

Assent of  
electors not  
requisite

**42.** It is not necessary that the assent of the electors of the municipality or of those thereof qualified to vote on money by-laws be obtained with respect to any by-law of the municipality or the issue thereunder of any debentures if such by-law is approved by the Department. R.S.O. 1960, c. 98, s. 42.

Department  
to have  
control over  
moneys and  
their  
application

R.S.O. 1970,  
c. 254

**43.** The Department has full charge and control over all moneys belonging to the municipality and received by any person for or on its behalf and such moneys shall be deposited in a chartered bank, the Province of Ontario Savings Office or a loan or trust company registered under *The Loan and Trust Corporations Act* to be designated by the municipality, and when so deposited shall only be applied, used, transferred and withdrawn



for such purpose, in such manner and at such time or times as the Department may approve and direct, and all cheques drawn and issued by the municipality shall be signed and countersigned by such persons and in such manner as the Department may authorize, and no moneys belonging to or revenues of the municipality may be appropriated, applied, paid, used, transferred or withdrawn by any person except with the approval of or otherwise than as directed by the Department. R.S.O. 1960, c. 98, s. 43.

**44.**—(1) Notwithstanding any general or special Act or any by-law of the municipality, only such rates, assessments or amounts shall be imposed, rated, levied or directed so to be upon the rateable property in the municipality or upon any part thereof as the Department approves or directs. Approval of Department necessary to levy rate

(2) Nothing in this Part relieves a municipality from the obligation to ultimately provide and pay to the county of which it forms or has formed part the amounts of all county rates heretofore or hereafter directed to be levied by the county in such municipality with interest thereon at such rate as the county may have been obliged to pay upon any money borrowed by it upon debentures or otherwise until payment is made, and the payment of such amounts with interest shall be made as and when the Department may direct. R.S.O. 1960, c. 98, s. 44 (1, 2). County rates to be provided as Department may direct

**45.** The council of a county by a vote of two-thirds of all the members thereof may accept in full settlement and payment of the county rates owing by any municipality that is subject to this Part an amount less than the whole amount thereof. R.S.O. 1960, c. 98, s. 44 (3). Settlement of county rates

**46.** The collector shall return his roll to the treasurer on or before such day as the Department may direct. R.S.O. 1960, c. 98, s. 46. Return of collector's roll

**47.**—(1) Where any part of the taxes on any vacant land within the municipality remains unpaid on the 31st day of December in the year next following that in which the taxes were levied, such vacant land vests in and becomes the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to subsection 8. Vesting of vacant lands in arrear for taxes

(2) Where any part of the taxes on improved land in the municipality remains unpaid on the 1st day of January in the third year following that in which the taxes were levied, such improved land vests in and becomes the property of the municipality upon registration by the treasurer of a tax arrears certificate, subject to the right of redemption hereinafter provided and to subsection 8. R.S.O. 1960, c. 98, s. 47 (1, 2). Vesting of improved lands in arrear for taxes



Registration  
of tax arrears  
certificate

(3) The treasurer, with respect to vacant land upon which any part of the taxes remains unpaid after the time mentioned in subsection 1 and with respect to improved land upon which any part of the taxes remains unpaid after the time mentioned in subsection 2, may register in the registry office a certificate signed by him to be known as a tax arrears certificate in Form 1, setting forth therein a description of the vacant land or improved land, as the case may be, and the amount of all unpaid taxes, with the amount of all penalties, interest and costs added thereto, and thereupon the land described in the certificate vests in and becomes the property of the municipality, its successors and assigns, in fee simple, clear of and free from all other estate, right, title or interest, subject only to the right of redemption hereinafter provided and to subsections 8, 10 and 11. R.S.O. 1960, c. 98, s. 47 (3); 1964, c. 22, s. 3 (1).

Notice of  
registration  
certificate

(4) Within ninety days after registration of a tax arrears certificate, the treasurer shall cause to be sent by registered mail to the last known address of the assessed owner of the land therein described and to all persons appearing by the records of the registry or land titles office and the sheriff's office to have an interest therein a written notice in Form 2 of the registration of such certificate and of the last day for redemption of the land. R.S.O. 1960, c. 98, s. 47 (4); 1962-63, c. 34, s. 2.

Copy of  
notice to  
Public  
Trustee

(5) Where a notice has been sent under subsection 4 to a corporation, the treasurer shall, within the time limit in subsection 4, send by registered mail to the Public Trustee a copy of the notice so sent. 1966, c. 42, s. 1.

Registration  
of declara-  
tion as to  
sending of  
notices

(6) The treasurer, forthwith after he has sent the notice as required by subsection 4, shall make and register in the registry office a statutory declaration describing the land to which it relates and setting forth the names and addresses of all persons to whom he has sent the notice and the date of sending the same to each person, and a specimen copy of the notice shall be attached to the declaration as an exhibit. R.S.O. 1960, c. 98, s. 47 (5); 1967, c. 22, s. 1.

Declaration  
deemed an  
instrument  
R.S.O. 1970,  
c. 409

(7) The statutory declaration shall for the purposes of registration be deemed to be an instrument which within the meaning of *The Registry Act* may be registered, and it is not necessary for its registration that the declaration be accompanied by any proof of execution other than that attested in the declaration.

Interest of  
Crown not  
affected

(8) Where the Crown, whether as represented by the Government of Canada or the Government of Ontario, has any interest in any land in respect of which taxes are in arrear, the interest only of the persons other than the Crown therein is vested in the municipality by the registration of a tax arrears certificate, and, where such interest is that of a lessee, licensee or locatee, the vesting is valid without requiring the consent of the Minister of Lands and Forests.

(9) The treasurer shall not register or cause to be registered any such certificates until authorized so to do by the Department, and any such authority may be general or special in its terms and shall not be required to be registered or referred to in any certificate that is registered. Department to approve registration

(10) Where a tax arrears certificate is registered with respect to a dominant tenement, the easements appurtenant thereto are vested in and become the property of the municipality, and, where a tax arrears certificate is registered with respect to a servient tenement, the registration does not affect any easement to which it is subject. Easements

(11) A restrictive covenant running with the land shall be deemed to be an easement within the meaning of subsection 10. R.S.O. 1960, c. 98, s. 47 (7-11). Restrictive covenant

**48.** Where land is vested in a municipality under section 47, the treasurer of the municipality may make any expenditure necessary, Insurance, repairs

- (a) to insure the land; or
- (b) to keep the land in a proper state of repair, if he has sent by registered mail at least one month before making the expenditure a notice containing particulars of the proposed expenditure and an estimate of the cost thereof to the last known address of the assessed owner of the land and to all persons appearing by the records of the registry or land titles office and the sheriff's office to have an interest therein,

and the amount of such expenditure, with interest as provided in section 553 of *The Municipal Act*, may be added to the amount required to redeem the land. 1965, c. 29, s. 2. R.S.O. 1970, c. 284

**49.—**(1) The owner or assessed owner of or any person appearing by the records of the registry or land titles office or the sheriff's office to have an interest in any vacant land or improved land in respect of which a tax arrears certificate has been registered may redeem the land at any time within one year after the date of registration of the certificate by paying to the municipality the amount set forth in the certificate in respect of the land to be redeemed with interest thereon to the day of redemption, together with the amount of all expenses incurred by the municipality and the treasurer in registering the certificates and for searches and postage and \$1 for each certificate and for each notice sent under subsection 4 of section 47, and also by paying to the municipality all taxes including the local improvement rates and the penalties and interest on such taxes and rates that have accrued against the land and that would have accrued against the land if it had remained the property of the former Right of redemption

owner and had been liable for ordinary taxation, and, if the value thereof is not shown upon the assessment roll, such taxes shall be computed at the rate fixed by by-law for each year for which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed, and the local improvement rates shall be computed at the rate fixed in the by-law by which they were rated or imposed and upon the frontage as shown upon the list of properties and the frontages thereof as settled by the court of revision for such local improvement, and a certificate of the treasurer as to the total amount payable in order to redeem the land is final and conclusive. R.S.O. 1960, c. 98, s. 49 (1).

Registration  
of  
redemption  
certificate

(2) Where land is redeemed under this section, the treasurer shall forthwith register in the registry office a certificate signed by him, to be known as a redemption certificate in Form 3, setting forth therein a description of the land redeemed, and a redemption certificate, when registered, is a valid and effectual cancellation of the tax arrears certificate registered with respect to the land, and, subject to subsection 3, the land thereupon vests in and becomes the property of the persons who would be entitled thereto if the tax arrears certificate had not been registered, according to their respective rights and interests. R.S.O. 1960, c. 98, s. 49 (2); 1964, c. 22, s. 4.

Lien on  
redemption  
by other  
than owner

(3) If land is redeemed by any person entitled to redeem the land other than the owner, such person has a lien upon the owner's interest therein for the amount paid to redeem the land. R.S.O. 1960, c. 98, s. 49 (3).

Duty of  
registrar

R.S.O. 1970,  
c. 409

**50.**—(1) Every certificate registered under section 47, 49 or 52 shall be entered by the registrar in the registry book in its proper order and in the proper abstract index provided under *The Registry Act*. R.S.O. 1960, c. 98, s. 50 (1).

Certificate  
of sheriff

(2) Upon the written request of the treasurer of a municipality for the purposes mentioned in section 47, the sheriff shall, in respect of the land described and the persons named in the request, furnish to the treasurer a certificate showing the names and addresses of all persons, if any, appearing by the records of his office to have an interest in such land, and for the certificate the sheriff is entitled to a fee of 75 cents for each lot embraced in the request.

Land  
transfer tax  
not payable  
R.S.O. 1970,  
c. 235

(3) No tax is payable under *The Land Transfer Tax Act* on registration of any tax arrears or redemption certificate or vacating certificate.

What lands  
certificate  
may  
embrace

(4) A tax arrears certificate of improved land shall not embrace more than one such property or any vacant land that is a separate parcel, and a tax arrears certificate of vacant land shall not embrace lots according to more than one registered plan or any improved land. R.S.O. 1960, c. 98, s. 50 (3-5).



**51.** Where land to which section 47 applies is registered in a land titles office, the certificate and declarations that may be registered under any provision of this Part shall be registered in the proper land titles office, and all the provisions of this Part in relation to such certificates and declarations and their registration apply *mutatis mutandis* to land entered in a land titles office, and *The Land Titles Act* shall be deemed to permit such registrations. 1964, c. 22, s. 6.

Where lands  
in land  
titles office

R.S.O. 1970,  
c. 234

**52.**—(1) Where under this Part, Part VI of *The Ontario Municipal Board Act, 1932* or Part III of *The Department of Municipal Affairs Act, 1935* a tax arrears certificate has been registered with respect to any land and it is subsequently ascertained that it was registered by mistake or that lands have erroneously been included therein, or where the treasurer has failed to comply with subsection 4 of section 47, or where an agreement for composition and payment of the arrears of taxes for which the certificate was registered has been entered into under section 56, the Department may direct the treasurer of the corporation to register a certificate signed by him, to be known as a vacating certificate in Form 4, setting forth therein a description of the land wherein the title of the corporation is to be vacated, and such vacating certificate, when registered, is as valid and effective in law as a conveyance of the land described therein to the registered owner at the time of registration of the tax arrears certificate, his heirs or assigns, of the estate of such registered owner at the time of the registration of the tax arrears certificate, but the registration of any vacating certificate does not in any way cancel or affect taxes or arrears of taxes, if any, that may be due upon the land described therein. 1964, c. 22, s. 7.

Vacating  
certificates  
1932, c. 27  
1935, c. 16

(2) The Department may require the council of a municipality that is subject to this Part to make application to the judge of the county or district court for the purposes mentioned in section 86 of *The Registry Act*.

Cancellation  
of plans

R.S.O. 1970,  
c. 409

(3) This section applies to lands acquired by The Corporation of the City of Windsor under section 3 of *The City of Windsor Act, 1932*. R.S.O. 1960, c. 98, s. 52 (2, 3).

Application  
to City of  
Windsor  
1932, c. 95

**53.**—(1) Notwithstanding the other provisions of this Act or any other Act, where land in respect of which a tax arrears certificate has been registered has become vested in the municipality and the period for redemption has expired and where the land has not been sold or conveyed and has not been declared by by-law to be required for the purposes of the municipality, any person to whom notice was sent under subsection 4 of section 47, with the approval of the Department, is entitled at any time to a

Conveyance  
to former  
owner, etc.



conveyance of the land upon payment of the full amount that would have been payable in respect of taxes, interest and penalties had the land not become vested in the municipality, together with the amount with interest thereon of any expenditure incurred for repairs and insurance and together with the costs in connection with such vesting and of the conveyance.

Further  
notice

(2) Notwithstanding subsection 1, the treasurer may, at any time after the expiration of ten years from the date of registration of the certificate, cause to be sent by registered mail to each person to whom notice was sent under subsection 4 of section 47, a further notice that, if he does not apply for a conveyance of the land under subsection 1 and tender the payment required under subsection 1 within six months of the date the notice is sent, his right to do so will expire.

Cessation  
of rights  
under  
subs. 1

(3) If a person notified under subsection 2 does not apply for a conveyance and tender the payment required under subsection 1 within such six months, his right to do so ceases to exist. R.S.O. 1960, c. 98, s. 53.

Proceeds of  
sale, etc.,  
to be dis-  
tributed

**54.** The proceeds derived from the sale or other disposition of lands that become the property of the municipality by virtue of section 47 shall be distributed in such manner and in such amounts as may be agreed upon, or, failing agreement, as the Department may direct, to the bodies that would have received the proceeds of taxes on such lands, if taxes had been collected in the usual way. R.S.O. 1960, c. 98, s. 54.

Right of  
appeal of  
Department  
R.S.O. 1970,  
c. 32

**55.—(1)** The Department has the same right of appeal as any person assessed has under subsection 2 of section 52 of *The Assessment Act* with respect to the assessment roll of the municipality and, in addition, has the right of appeal conferred by this section.

Idem

(2) An appeal by the Department under this section may be made at any time within twenty days after the return of the roll and such appeal may be with respect to any particular assessment or omission to assess or generally with respect to all of the assessments included in the roll or any area of the municipality described in the notice of appeal or generally with respect to assessment of land only or buildings only or business included in the roll or in any area of the municipality defined in the notice of appeal.

Appeal from  
Assessment  
Review Court  
or judge

(3) The Department has the same right of appeal from any decision of the Assessment Review Court or county judge as a person assessed has under *The Assessment Act*.

Procedure

(4) Except as provided in subsection 2, in any appeal against a particular assessment by the Department the practice and proced-

ure thereon shall be the same as in the case of an appeal by a person assessed.

(5) In any general appeal by the Department under this section, the practice and procedure shall be determined by the Assessment Review Court, county judge or the Board, as the case may be, and such notice or notices of the appeal shall be given by publication or otherwise as is determined by the court, judge or Board, and, upon the hearing of any such general appeal, the court, judge or Board has jurisdiction to review any or all of the assessments included in the roll as is necessary to determine the appeal and may make any changes, alterations and amendments therein, and also to direct the making of a new assessment roll in accordance with the terms of the order of the court, judge or Board. R.S.O. 1960, c. 98, s. 55, *amended*.

Practice and procedure in general appeal

(6) When it appears to the Department that, by reason of the revision or alteration of an assessment roll in accordance with a decision or decisions of the Assessment Review Court, the county judge or the Board, the roll as so revised or altered is inequitable in respect of a substantial number of persons shown on the roll, the Department may order that the entire roll as revised or altered be set aside and direct a new assessment to be made by such person as it may designate.

Where revised roll inequitable, may be set aside

(7) Where the Department directs a new assessment to be made, it shall also fix the time for the return of the new assessment roll, and the same rights of appeal as apply under *The Assessment Act* with respect to the assessment roll set aside apply with respect to such new roll, except that the dates specified in that Act for the hearing and determination of such appeals shall be extended for a period corresponding to the period of time between the return of the roll set aside and the return of the new roll. 1961-62, c. 33, s. 1, *amended*.

Time for return of new assessment, appeals  
R.S.O. 1970, c. 32

**56.**—(1) The Department may authorize a compromise of tax arrears to be entered into between the corporation and any ratepayer, and in such compromise may provide for an extension of the time of payment of such arrears or a reduction of the amount thereof or both and acceptance of any debentures or debenture coupons of the corporation in satisfaction of the whole or part thereof.

Compromise of tax arrears

(2) Where a compromise of tax arrears has been entered into under this section and an extension of the time of payment thereof agreed upon, such tax arrears are and remain a special lien upon the land in respect of which they are payable in priority over all claims, liens, privileges and encumbrances thereon, except claims of the Crown, and the liens, priorities and other rights with

Lien for taxes not affected

R.S.O. 1970,  
c. 32

respect thereto provided for in *The Assessment Act* continue to apply thereto and to the collection and enforcement thereof, except that the treasurer and collector of taxes of the municipality without thereby waiving the statutory rights and powers of the municipality or of themselves shall not enforce collection of such tax arrears during the time the agreement is in force. R.S.O. 1960, c. 98, s. 56.

Effect of  
agreements

**57.** Any agreement entered into in accordance with this Part is binding upon and enures to the benefit of the parties thereto and all persons over whom the Legislature has legislative authority. R.S.O. 1960, c. 98, s. 57.

Power of  
housing  
commission  
to amend  
agreements

**58.** A housing commission may, with the approval of the Department, amend the terms of any agreement for sale of property heretofore or hereafter entered into by it, and with respect to property sold under any agreement that has been cancelled or determined may enter into new agreements for sale thereof, and the terms of any such amended or new agreement may be such as the Department approves. R.S.O. 1960, c. 98, s. 58.

Exercise of  
municipal  
jurisdiction  
subject to  
this Part

**59.** The jurisdiction and powers of a municipality that is subject to this Part exercisable under any general or special Act shall only be exercised in accordance with and subject to this Part and any order of the Department or the Board made, or agreement entered into thereunder. R.S.O. 1960, c. 98, s. 59.

Exclusive  
jurisdiction  
of Board and  
Department

**60.**—(1) The Department or the Board has exclusive jurisdiction as to all matters arising under this Part or out of the exercise by the municipality or any person of any of the powers conferred by this Part, and such jurisdiction is not open to question or review in any action or proceeding or by any court.

Review  
of orders,  
etc.

(2) The Department or the Board may at any time of its own initiative or upon application made to it review any order, direction or decision made by it and confirm, amend, vary or revoke the same.

Orders to  
be final

(3) Any order made or approval given by the Department or the Board under this Part, subject to the right of the Board or the Department to review and amend or revoke it, is final and conclusive and not open to question in any court.

Board's  
jurisdiction

(4) The Board only has and may exercise exclusive jurisdiction to make any order under sections 28, 29, 36, 37, 38 and 67, and otherwise has jurisdiction only with respect to appeals to it under section 31.

(5) Except as provided by sections 28, 29, 31, 36, 37, 38 and 67, and by subsection 4, the Department only has and may exercise exclusive jurisdiction with respect to all matters provided for in this Part. R.S.O. 1960, c. 98, s. 60.

Department's  
jurisdiction

**61.** The Department or the Board may make such orders and prescribe such forms from time to time as it considers necessary to carry out the provisions of this Part or any agreement made in pursuance thereof, and may make rules and regulations in respect of applications, matters and things under this Part. R.S.O. 1960, c. 98, s. 61.

Powers of  
Board and  
Department

**62.** Every certificate, notice or other form that is in substantial conformity with the form thereof required by this Part, or prescribed by the Department or the Board, is not open to objection on the ground that it is not in the form required by this Part or prescribed by the Department or the Board. R.S.O. 1960, c. 98, s. 62.

Forms of  
certificates,  
notices, etc.

**63.** Where a municipality has become subject to this Part, all acts, deeds, matters and things done, made or performed by or for the Board or by or for the Department under this Part in relation to the affairs of such municipality shall for all purposes be deemed to have been made, done and performed by and for the municipality and in its name. R.S.O. 1960, c. 98, s. 63.

Powers  
exercisable  
for and in  
name of  
municipality

**64.** The Board and the Department have access at all times to all books, records, papers and documents of the municipality and of every local board, including but without limiting the generality of the foregoing all assessment rolls, collectors' rolls, by-laws, minute books, books of account, vouchers, and other records, papers and documents relating to its and their financial transactions, and may inspect, examine, audit and copy them or any part thereof. R.S.O. 1960, c. 98, s. 64.

Board and  
Department  
to have  
access to all  
books and  
records

**65.—(1)** Where a municipality has become subject to this Part, and its council or any local board fails, neglects or refuses to comply with any order, direction or decision of the Board or the Department, the Board or the Department may, upon such notice, if any, as it prescribes, do or order done all acts, deeds, matters and things necessary for compliance with such order or direction, and may exercise all the powers of the council or local board for such purpose and under its or their name and seal.

Powers to  
enforce  
orders

(2) The council of the municipality and every local board thereof, and every one of its or their members, officers, employees and servants, shall comply with the orders, directions and decisions of the Board or the Department in any matter relating to the administration of the affairs of such municipality or

Liability of  
members of  
council and  
local boards  
for non-  
compliance  
with orders  
and  
directions



local board, and any such person who knowingly or wilfully fails, neglects or refuses to observe and comply with any such order, direction or decision, or who, as a member of the council or local board, votes contrary thereto, is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$500 for each offence.

Personal liability and disqualification of members of council and local boards

(3) If a municipality that is subject to this Part applies any of its funds otherwise than as ordered or authorized by the Board or the Department, the members of the council or local board who voted for such application are jointly and severally liable for the amount so applied, and it may be recovered in a court of competent jurisdiction, and such members are also disqualified from holding any municipal office for five years. R.S.O. 1960, c. 98, s. 65, *amended*.

Dismissal of municipal officers

**66.** The Department may dismiss from office any officer, employee or servant of a municipality who fails, neglects or refuses to carry out any order, direction or decision of the Board or the Department. R.S.O. 1960, c. 98, s. 66.

Injunction against exercise of municipal powers

**67.** The Board may by injunction proceedings instituted in its own name prevent or stop the exercise by or for a municipality of any of its powers that have not been approved by the Board or the Department, when such approval is required under this Part. R.S.O. 1960, c. 98, s. 67.

Department may combine municipal offices

**68.** The Department may direct that any two or more of the offices of the municipality shall be combined and held by the same officer, and may subsequently separate any of the offices so combined. R.S.O. 1960, c. 98, s. 68.

Expenses of Department

**69.—(1)** The Department may direct payment of such fees or remuneration and travelling and other expenses reasonably incurred by the Department as it may determine.

Department's officer

(2) The Department may appoint some person, who may be an officer of the municipality, to exercise such powers and duties as the Department may provide, and the person so appointed shall be paid such salary and allowed such travelling and other expenses as the Department may determine.

Council may be heard as to salaries

(3) The Department, in determining the salaries to be paid to any person appointed by it under subsection 2, shall give consideration to such representations with respect thereto as the council may at any time make.

Salaries and expenses to be paid by municipality

(4) All salaries, fees, remuneration, travelling and other expenses payable under this section and all other expenses incurred by the Board or the Department in carrying out the provisions of

this Part or in the exercise of their powers thereunder shall be paid by the municipality or local board, as the case may be, and be chargeable to such of its accounts as the Department may direct. R.S.O. 1960, c. 98, s. 69.

**70.** The powers contained in this Part shall be deemed to be in addition to and not in derogation of any power of the Board, Department or municipality under this or any other Act, but, where the provisions of any general or special Act or any other Part of this Act conflict with the provisions of this Part, the latter prevails. R.S.O. 1960, c. 98, s. 70.

Provisions  
of this Act  
to prevail

**71.**—(1) Where the Department is of opinion that the affairs of a municipality no longer require to be administered under this Part, the Board may make an order directing that on, from and after a date fixed thereby this Part shall no longer apply to the municipality, and on, from and after such date the Board and the Department shall cease to exercise jurisdiction and control over the municipality under this Part.

Board may  
end appli-  
cation of  
this Part

(2) Notwithstanding the provisions of subsection 1 or of an order made thereunder, where such order has been or is made, the tax arrears procedures of this Part continue to apply to the municipality in the same manner as if such order had not been made and the tax sale procedures of *The Municipal Act* do not apply and the use or disposition of any land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition are subject to the approval of the Department. R.S.O. 1960, c. 98, s. 71, *amended*.

Tax arrears  
procedures

R.S.O. 1970,  
c. 284

(3) Where an improvement district or part of an improvement district is erected into a town, village or township, the tax arrears procedures of this Part apply to such town, village or township and the tax sale procedures of *The Municipal Act* do not apply, and the use or disposition of any land vested in the municipality under the tax arrears procedures and the application of the proceeds of such use or disposition are subject to the approval of the Department. 1966, c. 42, s. 2, *amended*.

Tax arrears  
procedures  
re improve-  
ment  
districts  
erected into  
towns, etc.

**72.** Where the Department has heretofore ceased or hereafter ceases to exercise jurisdiction and control over a municipality under this Part pursuant to an order made under section 71, the Board shall, notwithstanding such order, continue to have and may, subject to the approval of the Department, exercise any of the powers mentioned in section 36 in the same manner as if such order had not been made. R.S.O. 1960, c. 98, s. 72.

Power of  
Board  
under s. 36  
to continue  
to apply

FORM 1

(Section 47 (3) )

TAX ARREARS CERTIFICATE

To the Registrar of the Registry Division of the.....of.....

I HEREBY CERTIFY by virtue of *The Department of Municipal Affairs Act*, section 47, that the lands hereinafter described, by reason of certain taxes thereon remaining unpaid for the period mentioned in such section, are hereby vested in and become the property of the.....  
.....of..... (*naming the municipality*).

Description of lands	Amount of Unpaid Taxes with Penalties, Interest and Costs	Whether Vacant or Improved Land

The period within which the right of redemption may be exercised under such Act with respect to the above-described land is one (1) year from the date of registration of this certificate.

Dated at.....this.....day of....., 19...

.....  
Treasurer

R.S.O. 1960, c. 98, Form 1.

FORM 2

(Section 47 (4) )

NOTICE OF REGISTRATION OF TAX ARREARS CERTIFICATE

TAKE NOTICE that, by virtue of *The Department of Municipal Affairs Act*, section 47, a tax arrears certificate has been registered against the following lands, namely:

.....  
.....

and by reason thereof the same are vested in and are the property of The Corporation of the.....of..... (*naming the municipality*) subject only to your right of redemption of the same on or before the..... day of....., 19..., which is the last day for redemption.

Dated at.....this.....day of....., 19....

.....  
Treasurer

R.S.O. 1960, c. 98, Form 2.

FORM 3

(Section 49 (2) )

REDEMPTION CERTIFICATE

To the Registrar of the Registry Division of the ..... of .....

I HEREBY CERTIFY that the lands hereunder described have been redeemed by ..... under *The Department of Municipal Affairs Act*.

*Description of Lands*

.....  
.....

Take notice that, where land is redeemed by any person entitled to redeem the same, other than the owner, such person has a lien upon the owner's interest therein for the amount paid to redeem such land

Dated at ..... this ..... day of ....., 19.....

.....  
Treasurer

R.S.O. 1960, c. 98, Form 3.

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FORM 4

(Section 52 (1) )

VACATING CERTIFICATE

To the Registrar of the Registry Division of the ..... of .....

I HEREBY CERTIFY that the title of The Corporation of the ..... of ..... to the lands hereunder described is hereby vacated by the Corporation under *The Department of Municipal Affairs Act*.

*Description of Lands*

.....  
.....

Dated at ..... this ..... day of ....., 19.....

.....  
Treasurer

R.S.O. 1960, c. 98, Form 4.





## CHAPTER 119

### The Department of Revenue Act

**1.** In this Act,

- (a) "Department" means the Department of Revenue;
- (b) "Minister" means the Minister of Revenue. 1968, c. 29, s. 1.

Interpretation

**2.** The department of the public service known as the Department of Revenue is continued. 1968, c. 29, s. 2, *amended*.

Department continued

**3.** The Minister shall preside over and have charge of the Department. 1968, c. 29, s. 3.

Minister to have charge

**4.** The Minister is responsible for the administration of this Act, any Acts that are assigned to him by the Legislature or by the Lieutenant Governor in Council, and the following Acts:

Minister's Acts

- |   |                     |
|---|---------------------|
| 1. <i>The Corporations Tax Act.</i>                                 | R.S.O. 1970, c. 91  |
| 2. <i>The Gasoline Tax Act.</i>                                     | R.S.O. 1970, c. 190 |
| 3. <i>The Income Tax Act.</i>                                       | R.S.O. 1970, c. 217 |
| 4. <i>The Land Transfer Tax Act.</i>                                | R.S.O. 1970, c. 235 |
| 5. <i>The Logging Tax Act.</i>                                      | R.S.O. 1970, c. 258 |
| 6. <i>The Motor Vehicle Fuel Tax Act.</i>                           | R.S.O. 1970, c. 282 |
| 7. <i>The Motor Vehicle Fuel Tax Act, 1965.</i>                     | 1965, c. 76         |
| 8. <i>The Race Tracks Tax Act.</i>                                  | R.S.O. 1970, c. 397 |
| 9. <i>The Retail Sales Tax Act.</i>                                 | R.S.O. 1970, c. 415 |
| 10. <i>The Security Transfer Tax Act.</i>                           | R.S.O. 1970, c. 427 |
| 11. <i>The Succession Duty Act.</i>                                 | R.S.O. 1970, c. 449 |
| 12. <i>The Tobacco Tax Act.</i> 1968, c. 29, s. 4, <i>amended</i> . | R.S.O. 1970, c. 463 |

**5.—(1)** The Lieutenant Governor in Council shall appoint a Deputy Minister of Revenue as deputy head of the Department.

Deputy Minister

(2) Under the direction of the Minister, the Deputy Minister of Revenue shall perform such duties as the Minister may assign to him. 1968, c. 29, s. 6.

Deputy Minister's duties

Officers  
and staff  
R.S.O. 1970,  
c. 386

**6.** There shall be appointed pursuant to *The Public Service Act* such other officers, clerks and servants as the Minister considers necessary for the proper conduct of the business of the Department. 1968, c. 29, s. 7.

Seal

**7.**—(1) The Lieutenant Governor in Council may authorize a seal for the Minister.

Idem

(2) Such seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction, and when so reproduced has the same force and effect as if manually affixed. 1968, c. 29, s. 8.

Interpre-  
tation

**8.**—(1) In this section,

(a) “penalty” includes any forfeiture or pecuniary penalty imposed or authorized to be imposed by any Act of the Legislature for any contravention of the laws relating to the collection of the revenue or to the management of any public work producing toll or revenue, notwithstanding that part of such forfeiture or penalty is payable to any other person;

(b) “tax” includes any tax, impost, duty or toll payable to Her Majesty, imposed or authorized to be imposed by any Act of the Legislature.

Remission  
of taxes,  
etc.

(2) Notwithstanding any other Act, the Lieutenant Governor in Council, on the recommendation of the Minister, may, if he considers it in the public interest, remit any tax, fee or penalty.

Idem,  
may be  
partial,  
etc.

(3) A remission pursuant to this section may be total or partial, conditional or unconditional, and may be granted,

(a) before, after or pending any suit or proceeding for the recovery of the tax, fee or penalty in respect of which it is granted;

(b) before or after any payment thereof has been made or enforced by process or execution; or

(c) in the case of a tax or fee, in any particular case or class of case and before the liability therefor arises.

Idem,  
form of

(4) A remission under this section may be granted,

(a) by forbearing to institute a suit or proceeding for the recovery of the tax, fee or penalty in respect of which the remission is granted;

(b) by delaying, staying or discontinuing any suit or proceeding already instituted;

(c) for forbearing to enforce, staying or abandoning any execution or process upon any judgment;

(d) by the entry of satisfaction upon any judgment; or

- (e) by repaying any sum of money paid to or recovered by the Minister for the tax, fee or penalty.

(5) Where a remission is granted under this section subject to a condition and the condition is not performed, it may be enforced or all proceedings may be had as if there had been no remission. Idem, conditional

(6) A conditional remission, upon performance of the condition, and an unconditional remission, have effect as if the remission was made after the tax, fee or penalty in respect of which it was granted had been sued for and recovered. Effect of conditional remission

(7) Remissions granted under this or any other Act may be paid out of the Consolidated Revenue Fund. Payments

(8) A statement of each remission of \$1,000 or more granted under this section shall be reported to the Legislature in the public accounts. Report

(9) Where a penalty imposed by any law relating to the revenue has been wholly and unconditionally remitted under this section, the remission has the effect of a pardon for the offence for which the penalty was incurred, and thereafter the offence has no legal effect prejudicial to the person to whom the remission was granted. 1968, c. 29, s. 9. Remission has effect of pardon

**9.** The Lieutenant Governor in Council may make regulations, Regulations

- (a) authorizing or requiring the Deputy Minister of Revenue or any officer of the Department to exercise any power or perform any duty conferred or imposed upon the Minister by this or any Act;
- (b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1968, c. 29, s. 10.

**10.**—(1) In this section “Treasurer of Ontario” means the Treasurer of Ontario who presided over and administered the Treasury Department before the 23rd day of July, 1968. Interpretation

(2) This Act does not impair or prejudicially affect any assessment of tax made by the Treasurer of Ontario or authorized officer of the Treasury Department pursuant to any Act mentioned in section 4 of the Department of Revenue Act, 1968. Assessments not affected 1968, c. 29

(3) Nothing in this Act impairs or prejudicially affects any rights given to a person under any Act mentioned in section 4 of the Department of Revenue Act, 1968 before the 23rd day of July, 1968. Rights not affected



Property  
vested in  
Minister

(4) Where any security, obligation, covenant or any interest in real or personal property was given to the Treasurer of Ontario by virtue of his office pursuant to any Act mentioned in section 4 of the Department of Revenue Act, 1968, the security, obligation, covenant, and any right of action in respect thereto, and all the interest in real or personal property vests, subject to the same trusts as they were respectively subject to, in the Minister and may be proceeded on by action or in any other manner, or may be assigned, transferred or discharged, in the name of the Minister. 1968, c. 29, s. 11, *amended*.

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CHAPTER 120

The Department of Social and Family Services Act

1. In this Act,

Interpretation

- (a) "Department" means the Department of Social and Family Services;
- (b) "Minister" means the Minister of Social and Family Services. 1967, c. 23, s. 1.

2.—(1) The department of the public service known as the Department of Social and Family Services is continued.

Department continued

(2) The Minister shall preside over and have charge of the Department. 1967, c. 23, s. 2, amended.

Minister to have charge

3.—(1) The Minister is responsible for the administration of this Act and the regulations thereunder and the Acts and regulations made thereunder that are assigned or transferred to him by the Legislature or by the Lieutenant Governor in Council.

Responsibility of Minister

(2) The Minister, with the approval of the Lieutenant Governor in Council, may, on behalf of the Government of Ontario, make agreements with the Crown in right of Canada respecting the payment by Canada to Ontario of any portion of any expenditures heretofore or hereafter made by Ontario or by any municipality under any Act for the administration of which the Minister is responsible. 1967, c. 23, s. 3.

Agreements

4. Subject to *The Public Service Act*, there may be appointed a Deputy Minister of Social and Family Services and such other officers, clerks and servants as the Minister considers necessary for the proper conduct of the business of the Department. 1967, c. 23, s. 4.

Deputy Minister and staff R.S.O. 1970, c. 386

5. Any mention of or reference to the Minister of Public Welfare or the Department of Public Welfare in any Act or regulation shall be deemed to be mention of or reference to the Minister of Social and Family Services or the Department of Social and Family Services, respectively. 1967, c. 23, s. 5.

Change of name and title in other Acts

6. The Minister may,

Duties of Minister

- (a) institute inquiries into and collect information and statistics relating to or affecting any matter for the provision or promotion of social and family services;

- (b) disseminate from time to time information, in such manner and form as he considers suitable, for the promotion of social and family services;
- (c) secure the observance and execution of all Acts and regulations for the administration of which he is responsible; and
- (d) direct any officer of the Department or any other person to investigate and inquire into and report to him upon any activity, matter, agency, organization, association or institution having for any of its objects or relating to or affecting the social welfare of persons in Ontario and that is not under the jurisdiction of any other department of the public service of Ontario. 1967, c. 23, s. 6.

## Regulations

**7.** The Lieutenant Governor in Council may make regulations,

- (a) designating any institution or organization having charitable objects or purposes or any class of them to be subject to the control of the Minister;
  - (b) authorizing the Minister to operate and manage any institution or organization or class thereof that has been designated to be subject to the control of the Minister under this section;
  - (c) governing the operation and activities of any institution or organization or class thereof that has been designated to be subject to the control of the Minister under this section, including regulations governing the procuring of funds from the public and the application thereof by any such institution or organization or class thereof. 1967, c. 23, s. 7.
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## CHAPTER 121

**The Department of the Provincial Secretary and Citizenship Act****1.** In this Act,

- (a) "Department" means the Department of the Provincial Secretary and Citizenship;
- (b) "Deputy Minister" means the Deputy Provincial Secretary and Deputy Minister of Citizenship;
- (c) "Minister" means the Provincial Secretary and Minister of Citizenship. 1960-61, c. 20, s. 1.

Interpretation

**2.—(1)** The department of the public service known as the Department of the Provincial Secretary and Citizenship is continued.

Department continued

(2) The Minister shall preside over and have charge of the Department. 1960-61, c. 20, s. 2, *amended*.

Minister to have charge

**3.—(1)** The Lieutenant Governor in Council may appoint a Deputy Minister of the Department.

(2) The Lieutenant Governor in Council may appoint such Staff officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Department. 1960-61, c. 20, s. 3.

**4.—(1)** The Minister may exercise the powers and shall perform the functions and duties that were conferred or imposed on or assigned to the Secretary and Registrar or the Provincial Secretary on the 27th day of January, 1961. 1960-61, c. 20, s. 4 (1), *amended*.

Functions, etc., of Minister

(2) The Minister shall, on his own initiative and through co-operation with the ministers having charge of the departments of the public service of Ontario, with the ministers having charge of the departments of the public service of Canada, with municipal councils, with school boards and boards of education, with other organizations and otherwise, in the cause of human betterment, advance and encourage the concept and ideal of full and equal citizenship among the residents of Ontario in order that all may exercise effectively the rights, powers and privileges and fulfil the obligations, duties and liabilities of citizens of Canada within the Province of Ontario.

Idem



- Idem (3) In addition to the powers, functions and duties mentioned in subsections 1 and 2, the Minister shall perform such functions and duties as are assigned to him from time to time by the Lieutenant Governor in Council. 1960-61, c. 20, s. 4 (2, 3).
- Assignment of Acts **5.** Notwithstanding the provisions of any other Act, the Lieutenant Governor in Council may assign the administration of any Act to the Minister and the Minister shall be responsible for the administration of any Act so assigned and may exercise the powers and shall perform the duties of the minister named in any Act so assigned. 1960-61, c. 20, s. 5.
- Seal **6.**—(1) The Lieutenant Governor in Council may authorize a seal for the Minister.
- Idem (2) The seal may be reproduced by engraving, lithographing, printing or any other method of mechanical reproduction and when so reproduced has the same effect as if manually affixed. 1960-61, c. 20, s. 6.
- References in Acts **7.**—(1) A reference in any Act, regulation or otherwise to the Secretary and Registrar or to the Provincial Secretary shall be deemed to be a reference to the Minister.
- Idem (2) A reference in any Act, regulation or otherwise to the Deputy Provincial Secretary shall be deemed to be a reference to the Deputy Minister. 1960-61, c. 20, s. 7.
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## CHAPTER 122

# The Department of Tourism and Information Act

**1.** In this Act,Inter-  
pretation

- (a) “Department” means the Department of Tourism and Information;
- (b) “information centre” means a place that is held out to the public as being available for or engaged in furnishing travel information to the public, whether for hire or reward or otherwise;
- (c) “Minister” means the Minister of Tourism and Information;
- (d) “operate” means have the management and control;
- (e) “regulations” means the regulations made under this Act;
- (f) “sleeping accommodation” includes a campsite where any facility or service is provided for the supply of water or electricity or for the disposal of garbage or sewage;
- (g) “tourist establishment” means any premises operated to provide sleeping accommodation for the travelling public or sleeping accommodation for the use of the public engaging in recreational activities, and includes the services and facilities in connection with which sleeping accommodation is provided, but does not include,
  - (i) a camp operated by a charitable corporation approved under *The Charitable Institutions Act*, or
  - (ii) a summer camp within the meaning of the regulations made under *The Public Health Act*, or
  - (iii) a club owned by its members and operated without profit or gain.

R.S.O. 1970,  
c. 62R.S.O. 1970,  
c. 377

**2.**—(1) The department of the public service known as the Department of Tourism and Information is continued.

Department  
continued

(2) The Minister shall preside over and have charge of the Department and is responsible for the administration of such Acts and regulations made thereunder as are assigned to him by the provisions thereof or by the Lieutenant Governor in Council. 1966, c. 44, s. 2.

Duties of  
Minister

Objects	<p><b>3.</b>—(1) The objects of the Department are,</p> <ul style="list-style-type: none"><li>(a) to preserve and develop tourist and recreational attractions;</li><li>(b) to encourage and promote improvement in the standards of accommodation, facilities and services offered to the travelling and vacationing public; and</li><li>(c) to publicize the tourist industry and the resources, attractions and advantages of Ontario.</li></ul>
Expenses	<p>(2) The expenses of the Department in carrying out its objects shall be paid out of the moneys appropriated therefor by the Legislature. 1966, c. 44, s. 3, <i>amended</i>.</p>
Annual report	<p><b>4.</b> The Minister shall after the close of each year submit to the Lieutenant Governor in Council an annual report upon the affairs of the Department and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1966, c. 44, s. 4.</p>
Investigation	<p><b>5.</b> The Minister may by order appoint one or more persons to investigate, inquire into and report to him upon any matter connected with or affecting the tourist industry, including accommodation, facilities or services offered to tourists, or the advertising or publicizing thereof, or of the resources, attractions or advantages of Ontario, and, for the purposes of the investigation and inquiry, any person making the investigation may administer oaths to witnesses and require them to give evidence under oath. 1966, c. 44, s. 5.</p>
Licences	<p><b>6.</b>—(1) No person shall operate a tourist establishment without a licence therefor issued in accordance with the regulations.</p>
Permit	<p>(2) No person shall establish a tourist establishment or make an addition to or a structural alteration in a tourist establishment without a permit therefor issued in accordance with the regulations. 1966, c. 44, s. 6.</p>
Filing and posting up of rates	<p><b>7.</b>—(1) The holder of a licence to operate a tourist establishment shall,</p> <ul style="list-style-type: none"><li>(a) file with the Minister the rates for sleeping accommodation in the tourist establishment and alterations therein; and</li><li>(b) post up the rates filed under clause <i>a</i> at the times and in the manner prescribed by the regulations.</li></ul>
Charging of rates	<p>(2) No person shall require or accept a payment for sleeping accommodation in excess of the rates filed with the Minister under subsection 1 and the regulations. 1966, c. 44, s. 7.</p>

**8.** No person shall publish advertising matter or display any sign respecting tourist facilities, accommodation, services or attractions that does not comply with the regulations. 1966, c. 44, s. 8. Advertis-  
ing

**9.**—(1) The Minister may designate employees of the Department as inspectors. Inspectors

(2) An inspector may inspect the premises, books and records of any tourist establishment for the purpose of enforcing this Act and the regulations, and, for the purpose of an inspection, may, Duties

(a) enter the premises of the tourist establishment or any part thereof and be accompanied on his inspection by a legally qualified medical practitioner, a constable or police officer, a municipal building or public health inspector, or an inspector appointed under *The Hotel Fire Safety Act*, *The Liquor Licence Act* or *The Power Commission Act*; and R.S.O. 1970,  
cc. 211,  
250, 354

(b) require the production of the books and records of the tourist establishment, and examine and copy such books and records or any part thereof. 1966, c. 44, s. 9, amended.

**10.**—(1) The Lieutenant Governor in Council may set apart as an historical park any area in Ontario in which there is an object, site or land of historical significance for the use by the people of Ontario in connection with the enjoyment of such historic object, site or land. 1966, c. 44, s. 10 (1). Designation  
of historical  
parks

(2) The Minister is responsible for the development, control and management of historical parks. 1967, c. 24, s. 1. Responsi-  
bility of  
Minister

(3) Land may be acquired under *The Public Works Act* for the purpose of this section. 1966, c. 44, s. 10 (3). Acquisition  
of land  
R.S.O. 1970,  
c. 393

**11.**—(1) The Lieutenant Governor in Council may establish a committee in respect of any historical park, consisting of not more than ten members, to advise the Minister in the development and management of the park and in such other matters as the Minister refers to it. Advisory  
Committee

(2) The members of a committee established under subsection 1 shall receive such remuneration for their services as the Lieutenant Governor in Council determines and shall be paid proper travelling and other expenses incurred in the work of the committee. 1967, c. 24, s. 2. Remunera-  
tion for  
members

**12.**—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000. Penalty  
for breach  
of Act



Penalty for  
breach of  
regulations

(2) Every person who contravenes any provision of the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than \$500.

Operating  
tourist  
establish-  
ment  
without a  
licence

(3) In addition to the penalty provided in subsection 1, a person who is convicted of a contravention of section 6 is liable to a fine of \$10 for each day the offence continues, not exceeding ninety days. 1966, c. 44, s. 11.

Regulations

**13.—**(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the issuance of permits and licences, prescribing the terms and conditions of the permits and licences, or any class thereof, and providing for their suspension or cancellation;
- (b) requiring the holders of permits and licences to make such returns and reports as are prescribed;
- (c) requiring the payment of fees in respect of the issuance of permits and licences and renewals thereof, and fixing the amounts of the fees;
- (d) providing for the apportionment and distribution of moneys appropriated by the Legislature for the maintenance, development and promotion of the tourist industry and historical institutions, and providing for the conditions governing the payment thereof;
- (e) governing the content and the publication or display of advertising matter or signs respecting tourist facilities, accommodation, services or attractions;
- (f) governing the plans and specifications of tourist establishments, or any class thereof, and the facilities and equipment that shall be provided;
- (g) requiring information centres, or any class thereof, to be licensed, and providing for the inspection of licensed information centres and their books and records;
- (h) governing the operation of information centres and tourist establishments, or any class thereof;
- (i) prescribing the times when and the manner in which rates for sleeping accommodation in tourist establishments and alterations therein shall be filed with the Minister and posted up under section 7;
- (j) prescribing forms and providing for their use;
- (k) exempting any class of tourist establishment from this Act or the regulations or from any provision thereof;
- (l) requiring the payment of fees in respect of the use of historical parks or any part thereof or of any service

provided therein and prescribing the amount of such fees;

(m) governing the use of historical parks;

(n) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 44, s. 12 (1); 1967, c. 24, s. 3.

(2) Any regulation made under subsection 1 may be general or Application particular in its application. 1966, c. 44, s. 12 (2).

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## CHAPTER 123

**The Department of Trade and  
Development Act****1.** In this Act,Interpre-  
tation

- (a) "Department" means the Department of Trade and Development;
- (b) "Minister" means the Minister of Trade and Development. 1968, c. 30, s. 1.

**2.**—(1) The department of the public service known as the Department of Trade and Development is continued.

Department  
continued

(2) The Minister shall preside over and have charge of the Department and is responsible for the administration of this and such other Acts and regulations made thereunder as are assigned to him by the provisions thereof or by the Lieutenant Governor in Council. 1968, c. 30, s. 2, *amended*.

Duties of  
Minister**3.** The Minister shall,Further  
duties of  
Minister

- (a) cause the Department to acquire a detailed knowledge of industries in Ontario;
- (b) promote the establishment, growth, efficiency and improvement of industries in Ontario;
- (c) develop and carry out such programs and projects as may be appropriate,
  - (i) to assist the adaptation of manufacturing industries to changing conditions in domestic and export markets, and to changes in the techniques of production,
  - (ii) to identify and assist those manufacturing industries that require special measures to develop an unrealized potential or to cope with exceptional problems of adjustments. 1968, c. 30, s. 3.

**4.** The Minister, in exercising his powers and carrying out his duties and functions under this Act,

Idem

- (a) shall co-operate with the ministers having charge of the other departments of the public service of Ontario, Canada and of the other provinces, with associations



and organizations and with public and private enterprises with a view to stimulating business, increasing production and extending trade;

- (b) shall co-operate in the work and functions of the departments of the public service of Ontario in respect of formulating plans to create, assist, develop and maintain productive employment and to develop the human and material resources of Ontario;
- (c) may consult with, and organize conferences of, representatives of trade, industry and labour, federal, provincial and municipal authorities and other interested parties;
- (d) may promote or conduct surveys and inquiries in matters of interest to industry;
- (e) may encourage research for the advancement of industry;
- (f) may collect and disseminate information on such aspects of the provincial economy as affect the development of industry; and
- (g) may assist industry in any other manner considered to be proper. 1968, c. 30, s. 4, *amended*.

Areas for  
equalization  
of industrial  
opportunity

**5.—**(1) The Minister, with the approval of the Lieutenant Governor in Council, may approve any area in Ontario that is considered to require assistance to attract industrial development as an area of equalization of industrial opportunity.

Duties re  
approved  
areas

(2) The Minister shall,

- (a) undertake research and make investigations respecting the areas of equalization of industrial opportunity; and
- (b) prepare and carry out such programs and projects to improve the economic development of areas of equalization of industrial opportunity as may be appropriate and that cannot suitably be undertaken by other departments, branches or agencies of the Government of Ontario. 1968, c. 30, s. 5.

Expenses of  
Department

**6.** The expenses of the Department in carrying out its objectives shall be paid out of the moneys appropriated therefor by the Legislature. 1968, c. 30, s. 6.

Reference to  
Minister  
in other  
Acts

**7.** A reference in any Act to the Minister of Planning and Development, the Minister of Commerce and Development or the Minister of Economics and Development, except where inconsistent with the intent of the Act, shall be deemed to be a reference to the Minister of Trade and Development. 1968, c. 30, s. 7.

CHAPTER 124

The Department of Transport Act

1. In this Act,

Interpre-  
tation

- (a) “Department” means the Department of Transport;
- (b) “Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council as the Minister of Transport to administer the Department. R.S.O. 1960, c. 102, s. 1.

2.—(1) The department of the public service known as the Department of Transport is continued.

Department  
continued

(2) The Minister shall preside over and have charge of the Department. R.S.O. 1960, c. 102, s. 2.

Minister to  
have charge

3.—(1) A Deputy Minister of the Department may be appointed by the Lieutenant Governor in Council.

Deputy  
Minister

(2) The Lieutenant Governor in Council may appoint such officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Department. R.S.O. 1960, c. 102, s. 3.

Staff

4. Notwithstanding any other Act, the Lieutenant Governor in Council may assign the administration of any Act to the Minister and the Minister is responsible for the administration of an Act so assigned and may exercise the powers and shall perform the duties of the minister named in an Act so assigned. R.S.O. 1960, c. 102, s. 4.

Assignment  
of Acts to  
Minister

5. The expenses of the Department shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 102, s. 5.

Expenses

6.—(1) The Government of Ontario, represented by the Minister of Transport, may make reciprocal arrangements and enter into agreements with the government or governments of any province or provinces of Canada,

Provincial  
agreements  
re licensing  
and fees of  
commercial  
motor  
vehicles, etc.

- (a) providing for the licensing of public commercial vehicles and public vehicles, for the registration of commercial motor vehicles and trailers, and for exemptions from such licensing and registration;

- (b) prescribing the fees to be paid therefor and providing for the payment and apportionment of such fees; and
- (c) providing for such other related matters as are considered necessary.

Acts  
subject to  
agreement  
R.S.O. 1970,  
cc. 202, 375,  
392

(2) The provisions of *The Highway Traffic Act*, *The Public Commercial Vehicles Act* and *The Public Vehicles Act* and regulations made thereunder, with respect to licensing and registration of vehicles, are subject to any agreement entered into under this section.

Public  
commercial  
vehicles

(3) A public commercial vehicle licence issued for a commercial motor vehicle or trailer by a province with which an agreement has been entered into under this section with respect to such a licence shall be deemed for the purposes of *The Public Commercial Vehicles Act* to be a public commercial vehicle licence under that Act.

Public  
vehicles

(4) A public vehicle licence issued for a public vehicle by a province with which an agreement has been entered into under this section with respect to such a licence shall be deemed for the purposes of *The Public Vehicles Act* to be a public vehicle licence under that Act.

Commercial  
motor  
vehicles

(5) A permit for the registration of a commercial motor vehicle or trailer issued by a province with which an agreement has been entered into under this section with respect to such a permit shall be deemed for the purposes of *The Highway Traffic Act* to be a permit for the registration of such vehicle under that Act.

Suspension  
of licences  
or permits

(6) Where a licence or permit issued by a province with which an agreement has been entered into under this section is deemed for the purposes of any Act of the Legislature to be a licence or permit under such Act, the provisions of such Act with respect to suspension or cancellation of such a licence or permit apply in so far as the licence or permit is effective in Ontario. R.S.O. 1960, c. 102, s. 6.

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## CHAPTER 125

**The Department of University Affairs Act****1.** In this Act,

- (a) "Department" means the Department of University Affairs;
- (b) "Minister" means the member of the Executive Council designated by the Lieutenant Governor in Council as the Minister of University Affairs. 1964, c. 24, s. 1.

Interpre-  
tation

**2.**—(1) The department of the public service known as the Department of University Affairs is continued.

Department  
continued

(2) The Minister shall preside over and have charge of the Department. 1964, c. 24, s. 2, *amended*.

Minister  
to have charge

**3.**—(1) The Lieutenant Governor in Council may appoint a Deputy Minister of the Department.

Deputy  
Minister

(2) Such officers, clerks and servants may be appointed under *The Public Service Act* as are considered necessary from time to time for the proper conduct of the business of the Department.

Staff  
R.S.O. 1970,  
c. 386

(3) The Lieutenant Governor in Council may appoint such advisory committees or other consulting bodies as are considered necessary from time to time. 1964, c. 24, s. 3.

Advisory  
bodies

**4.** Notwithstanding any other Act, the Lieutenant Governor in Council may assign the administration of any Act to the Minister, and the Minister shall be responsible for the administration of any Act so assigned and may exercise the powers and shall perform the duties of the Minister named in any Act so assigned. 1964, c. 24, s. 4.

Assignment  
of Acts to  
Minister

**5.** The Minister may determine the amount of any capital expenditure of a university that may be financed through The Ontario Universities Capital Aid Corporation, and debentures may be purchased from a university by the Corporation only on the recommendation of the Minister. 1964, c. 24, s. 5.

Capital  
expenditures  
financed  
through The  
Ontario  
Universities  
Capital Aid  
Corporation

**6.** The expenses of the Department shall be paid out of the moneys appropriated therefor by the Legislature. 1964, c. 24, s. 6, *amended*.

Expenses





## CHAPTER 126

## The Dependants' Relief Act

## 1. In this Act,

Interpre-  
tation

- (a) "applicant" means a dependant making application for an allowance under this Act, or, in the case of a dependant who is a patient in a psychiatric facility under *The Mental Health Act* or who has been declared a mentally incompetent person, the Public Trustee or committee of such person, as the case may be, or, in the case of an infant, the Official Guardian, applying for an allowance under this Act on behalf of such patient in a psychiatric facility under *The Mental Health Act*, mentally incompetent person or infant, as the case may be; R.S.O. 1970,  
c. 269
- (b) "dependant" means the wife or husband of a testator, the child of a testator under the age of sixteen years or the child of a testator over that age who through illness or infirmity is unable to earn a livelihood;
- (c) "executor" includes administrator with the will annexed;
- (d) "letters probate" includes letters of administration with the will annexed;
- (e) "testator" means a person who by deed or will or by any other instrument or act so disposes of real or personal property, or an interest therein, that the property or interest will pass at his death to some other person;
- (f) "will" means a deed, will, codicil, instrument or other act by which a testator so disposes of real or personal property that the property will pass at his death to some other person. R.S.O. 1960, c. 104, s. 1, amended.

2.—(1) Where it is made to appear to the judge of the surrogate court of the county or district in which a testator was domiciled at the time of death that the testator has by will so disposed of real or personal property that adequate provision has not been made for the future maintenance of his dependants or any of them, the judge may make an order charging the whole or any portion of the estate, in such proportion and in such manner as to him seems proper, with payment of an allowance sufficient to provide such maintenance. Order for  
allowance  
for main-  
tenance

Form of  
allowance

(2) The allowance may be by way of an amount payable annually or otherwise, or of a lump sum to be paid, or of certain property to be conveyed or assigned, either absolutely or for life or for a term of years, to the dependant by whom or on whose behalf the application is made, or for his use and benefit as the judge sees fit, and, in the event of a conveyance of property being ordered, the judge may give all necessary and proper directions for the execution of the conveyance or conveyances, either by the executor or by such other person as the judge directs, or may grant a vesting order. R.S.O. 1960, c. 104, s. 2.

Who may  
apply  
R.S.O. 1970,  
c. 269

**3.** An application for an allowance may be made by a dependant, or, in the case of a dependant who is a patient in a psychiatric facility under *The Mental Health Act* or has been declared a mentally incompetent person, by the Public Trustee or committee, as the case may be, or, in the case of a dependant under the age of twenty-one years, by the Official Guardian or by a guardian appointed by the court. R.S.O. 1960, c. 104, s. 3, *amended*.

Procedure

**4.—(1)** An application for an allowance shall be made to the judge in chambers upon originating notice according to the practice of the court.

When  
application  
to be made

(2) Where letters probate have been or are applied for by the wife or husband of the testator or a guardian on behalf of minor dependants, an application for an allowance for such wife or husband or for such minor dependants shall be made at the time of applying for letters probate and in every other case the application shall be made within three months after the death of the testator, but the judge, if he considers it just, may allow an application to be made at any time as to any portion of the estate remaining undistributed at the date of the application.

Distribution  
of estate  
postponed

(3) After service of notice of the application, the executors or trustees under the will shall not proceed with the distribution of the estate except so far as is necessary for the payment of debts and funeral and testamentary expenses and succession duty until the application is disposed of.

Removal  
into  
Supreme  
Court

(4) At any time before the hearing of the application, a judge of the Supreme Court upon motion on behalf of the trustees or executors, or the applicant, or any other person interested, and upon being satisfied that the total value of the estate of the testator exceeds \$10,000, may by order direct that the application be heard by a judge of the Supreme Court and thereupon the matter shall be transferred into the Supreme Court and the application shall be heard by a judge of the Supreme Court who has the like powers and shall proceed in the like manner as in the case of a hearing and determination by the judge of the surrogate court. R.S.O. 1960, c. 104, s. 4 (1-4).

(5) Where a person by whom, or on whose behalf, an application for an allowance may be made under this Act is a patient in a psychiatric facility under *The Mental Health Act* at the time of the death of the testator or at any time before the application under this Act is heard and disposed of, notice of the application for letters probate shall be served upon the Public Trustee on behalf of such person, and the time within which the Public Trustee may make an application for an allowance under this Act runs from the date of the service of such notice.

Persons in  
institutions  
under  
R.S.O. 1970,  
c. 269

(6) Where a person interested in the estate in respect of which an application is made under this Act is a patient in a psychiatric facility under *The Mental Health Act*, notice of the application for an allowance shall in every case be served upon the Public Trustee who has the right to appear and be heard upon the application. R.S.O. 1960, c. 104, s. 4 (5, 6), *amended*.

Notice to  
Public  
Trustee

**5.** The judge shall not make any order until he is satisfied upon oath that all persons who are or may be interested in or affected by the order have been served with notice of the application as provided by the rules of court, and every such person is entitled to be present and to be heard in person or by counsel at the hearing. R.S.O. 1960, c. 104, s. 5.

Notice to  
parties  
before order

**6.** Except where inconsistent with this Act, the rules of evidence observed in and the practice and procedure of the surrogate court apply to proceedings under this Act. R.S.O. 1960, c. 104, s. 6.

Practice

**7.** The judge upon the hearing of the application shall inquire into and consider,

Matters to  
be considered  
by judge

- (a) the circumstances of the testator at the time of death;
- (b) the circumstances of the person on whose behalf the application is made;
- (c) the claims that any other person may have as a dependant of the testator;
- (d) any provision that the testator may have made during his lifetime for dependants or any dependant;
- (e) any services rendered by dependants to the testator;
- (f) any sum of money or any property provided by a dependant for the testator for the purpose of providing a home or assisting in a business or occupation or for maintenance or medical or hospital expenses; and
- (g) generally any matter that the judge thinks should be fairly taken into account in deciding upon the application. R.S.O. 1960, c. 104, s. 7, *amended*.



Payment  
for services  
rendered to  
testator

**8.** Where the dependant has given personal assistance or a gift or loan of money or real or personal property towards the advancement of the testator in a business or occupation, the judge may in and by his order fix a value in money upon such assistance, or may fix the amount or value in money of any gift or loan so made, and may direct that the applicant rank as a creditor upon the estate therefor in the same manner and to the same extent as a judgment creditor upon a simple contract debt, but, except as to the amount so fixed as the value of such assistance or as the amount or value in money of such gift or loan, an allowance payable under this Act shall be postponed to the claims of creditors of the estate. R.S.O. 1960, c. 104, s. 8; 1962-63, c. 35, s. 1.

When widow  
disqualified

**9.** No order shall be made under this Act in favour of a wife who was living apart from her husband at the time of his death under circumstances that would disentitle her to alimony. R.S.O. 1960, c. 104, s. 9.

Limit of  
allowance

**10.** Subject to section 8, the amount or value of any allowance ordered to be paid, together with the value of any benefits given under the will of the testator, shall not exceed the amount to which the person in whose favour the order is made would have been entitled if the testator had died intestate. R.S.O. 1960, c. 104, s. 10.

Costs

**11.** The judge may direct that the costs of the application be paid out of the estate or otherwise as he thinks just, and may fix the amount of the costs payable by any party, exclusive of necessary disbursements, at a lump sum having regard to the value of the estate and the amount of any allowance applied for or directed by his order. R.S.O. 1960, c. 104, s. 11.

Appeal

**12.—(1)** A party or person taking part in the proceedings may appeal to the Court of Appeal from an order or decision made under this Act.

Persons  
interested  
may appeal

(2) Where the party or person having a right of appeal does not appeal from the order or decision, any person beneficially interested in the estate, by leave of a judge of the Court of Appeal, may appeal therefrom.

Persons  
interested  
may be  
heard

(3) Any person beneficially interested in the estate, by leave of a judge of the Court of Appeal, may appear and be heard upon an appeal.

Manner and  
time of  
appeal

(4) Every appeal under this Act shall be made by notice of motion served upon all parties interested within thirty days after the date of the order or decision appealed from, and, when the circumstances of any case in the opinion of a judge of the Court of Appeal so warrant, he may permit service to be effected by registered mail.

(5) The time limited for appeal may be extended by a judge of the Court of Appeal, either before or after the expiry of the time limit. <sup>Extension of time</sup>

(6) The rules of court apply to such appeals. R.S.O. 1960, <sup>Rules of court</sup>  
c. 104, s. 12.

**13.** *The Judges' Orders Enforcement Act* applies to orders made under this Act. R.S.O. 1960, c. 104, s. 13. <sup>Application of R.S.O. 1970, c. 227</sup>

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## CHAPTER 127

## The Deposits Regulation Act

## 1. In this Act,

Interpre-  
tation

- (a) “advertisement” includes any form of advertising in any medium or any act, conduct, communication or negotiation or any display, writing or statement made, done, issued or published to members of the public or in a public place;
- (b) “Commission” means the Ontario Securities Commission;
- (c) “corporation” means any incorporated corporation, incorporated association, incorporated syndicate or other incorporated organization, including corporations that do not deal with each other at arm’s length or that would be deemed not to deal with each other at arm’s length under section 1 of *The Corporations Tax Act*;
- (d) “deposit” means a loan of money at interest or at a discount or repayable at a premium in money or otherwise made to any person or corporation one of whose principal businesses is lending money, dealing in mortgages of real or personal property or purchasing accounts receivable, but does not include a loan of money to any corporation in connection with the issue and sale of its bonds, debentures, notes or other written evidences of indebtedness;
- (e) “members of the public” means any section or segment of the public without regard to the numbers thereof;
- (f) “person” means an individual, partnership, unincorporated association, unincorporated organization and a syndicate other than an incorporated syndicate, including persons who are related persons or who would be deemed to be related persons under section 1 of *The Corporations Tax Act*;
- (g) “regulations” means the regulations made under this Act;
- (h) “short term securities” means bonds, debentures or other evidences of indebtedness maturing within 180 days from the date of acquisition thereof and authorized for purchase or investment by registered loan corporations under subsection 1 of section 150 of *The Loan and Trust Corporations Act*;

R.S.O. 1970,  
c. 91R.S.O. 1970,  
c. 254



- (i) “solicitation of deposits” means any advertisement calculated directly or indirectly to lead to or induce the deposit of money or the investment of money on deposit by members of the public, and any reference to soliciting deposits shall be construed accordingly. 1962-63, c. 36, s. 1, *amended*.

Application  
of Act  
1966-67,  
c. 87 (Can.)

R.S.O. 1970,  
c. 254

R.S.O. 1970,  
c. 96

R.S.O. 1970,  
c. 226

R.S.O. 1970,  
c. 89

R.S.C. 1952,  
c. 212

R.S.O. 1970,  
c. 11

R.S.O. 1970,  
c. 224

R.S.O. 1970,  
c. 278

**2.** This Act does not apply to,

- (a) any bank to which the *Bank Act* (Canada) applies;
- (b) any corporation to which *The Loan and Trust Corporations Act* applies;
- (c) any credit union to which *The Credit Unions Act* applies;
- (d) any issuer within the meaning of *The Investment Contracts Act*;
- (e) any corporation to which Part V of *The Corporations Act* applies;
- (f) any post office savings bank established under the *Post Office Act* (Canada);
- (g) the Province of Ontario Savings Office constituted under *The Agricultural Development Finance Act*;
- (h) any insurer to which *The Insurance Act* applies;
- (i) any mortgage broker registered under *The Mortgage Brokers Act*; or
- (j) any person or corporation or any class of persons or corporations that is exempted by the regulations. 1962-63, c. 36, s. 2, *amended*.

Improper  
solicitation  
of deposits

**3.** No person or corporation shall solicit deposits in any manner that is false, misleading, deceptive or likely to create an erroneous impression. 1962-63, c. 36, s. 3.

Advertise-  
ments for  
deposits

**4.—(1)** No advertisement soliciting deposits shall be made, done, issued or published in any manner whatsoever without such advertisement first having been submitted to the Commission for its review and certification as complying with the provisions of this Act and the regulations, and no such advertisement shall be made, done, issued or published without such certification.

Exemption  
for pub-  
lishers

**(2)** Any person or corporation who, in the ordinary course of business, makes, issues or publishes an advertisement soliciting deposits on the order or direction of another person or corporation, being an advertisement the making, issue or publication of which by such other person or corporation constitutes an offence under this Act, is not guilty of such offence if the matter or material contained in such advertisement was not devised or selected by such person or corporation or under his or its direction or control. 1962-63, c. 36, s. 4.

**5.**—(1) Every person or corporation accepting or receiving deposits from members of the public shall set aside and segregate and hold separate from the other assets of any such person or corporation as security for such deposits cash on hand or deposited in any bank to which the *Bank Act* (Canada) applies or short term securities in an amount or principal amount aggregating not less than 60 per cent of the aggregate amount of such deposits.

Security for  
deposits1966-67,  
c. 87 (Can.)

(2) Every person or corporation accepting or receiving deposits from members of the public shall keep records of such deposits and the particulars of the security therefor in the form and content prescribed by the Commission.

Records

(3) Every person or corporation accepting or receiving deposits from members of the public shall furnish to the Commission a return in the prescribed form on or before the first days of January, April, July and October in each year containing information as to the particulars of the security for such deposits certified by the auditor or accountant of such person or corporation.

Returns

(4) Any duly authorized representative of the Commission appointed by order of the Commission may at any reasonable time inspect the books, accounts, documents and other records kept by any person or corporation receiving or accepting deposits from members of the public and may require any officer, director or employee of any such person or corporation to furnish such information as the Commission considers necessary for the purpose of ascertaining whether this Act and the regulations have been or are being complied with.

Inspection

(5) For the purposes of subsection 4, any such representative of the Commission has the same power to summon and enforce the attendance of witnesses and to compel them to give evidence on oath or otherwise and to produce documents, records and things and to seize and take possession of any documents, records, securities or other property as is provided in subsections 3 and 4 of section 21 of *The Securities Act*. 1962-63, c. 36, s. 5.

Powers  
upon  
inspectionR.S.O. 1970,  
c. 426

**6.** Any advertisement submitted to the Commission for review and certification and every return, record or other information required to be filed with the Commission shall be accompanied by the fee prescribed by the regulations. 1962-63, c. 36, s. 6.

Fees

**7.**—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years, or to both.

Offences,  
persons

(2) Every corporation that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$25,000.

Idem,  
corporations

Idem,  
officers,  
etc., of  
corporations

(3) Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the fine or imprisonment or to both provided in subsection 1 whether or not the corporation has been prosecuted or convicted. 1962-63, c. 36, s. 7.

Regulations

**8.** The Lieutenant Governor in Council may make regulations,

- (a) exempting persons or corporations or any class thereof from the application of this Act;
  - (b) prescribing the requirements with respect to the submission to the Commission, for its review and certification, of advertisements that solicit deposits;
  - (c) prescribing the form and content of records of deposits and particulars of the security therefor;
  - (d) prescribing the return to be furnished to the Commission by persons or corporations receiving or accepting deposits containing information as to the particulars of security therefor;
  - (e) prescribing and providing for fees under this Act;
  - (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 36, s. 8.
-

## CHAPTER 128

**The Deserted Wives' and Children's  
Maintenance Act**

**1.** In this Act, “judge” means a provincial judge presiding in a provincial court (family division). Interpre-  
tation

**2.**—(1) Where a wife has been deserted by her husband, an information may be laid before a justice of the peace, and the justice of the peace may issue a summons in Form 1 against the husband, and if upon the hearing before a judge it appears that the husband had deserted his wife without having made adequate provision for her maintenance and the maintenance of his children residing with her and that he is able to maintain them in whole or in part and neglects or refuses so to do, the judge may make an order in Form 2 requiring him to pay such sum at such intervals as is considered proper having regard to all the circumstances. R.S.O. 1960, c. 105, s. 1 (1), *amended*. Order for  
maintenance  
of wife

(2) A married woman shall be deemed to have been deserted within the meaning of this section when she is living apart from her husband because of his acts of cruelty, or of his refusal or neglect, without sufficient cause, to supply her with food and other necessities when able so to do, or of the husband having been guilty of adultery that has not been condoned and that is duly proved, notwithstanding the existence of a separation agreement where there has been default under it and whether or not it contains express provisions excluding the operation of this Act. Desertion  
of wife

(3) Without restricting in any way the generality of subsection 2, conduct causing reasonable apprehension of bodily injury, or of injury to health, without proof of actual personal violence, that renders the home an unfit place, either for a wife or child, may be held to constitute acts of cruelty within the meaning of subsection 2. What  
constitutes  
cruelty

(4) No order shall be made in favour of a wife who is proved to have committed adultery, unless the adultery has been condoned, and any order may be rescinded upon proof that the wife, after the making thereof, has been guilty of adultery, if it has not been condoned. R.S.O. 1960, c. 105, s. 1 (2-4). Cases of  
adultery

(5) A finding by the judge that adultery has been proved is not evidence of the adultery in any other proceedings. R.S.O. 1960, c. 105, s. 1 (5), *amended*. Effect of  
finding of  
adultery



Order for  
maintenance  
of child

**3.**—(1) A father who has deserted his child may be summoned before a judge presiding in the provincial court (family division) having jurisdiction where the father or the child then resides, who, if satisfied that the father has wilfully refused or neglected to maintain the child and has deserted the child, may order the father to pay to the person named in the order for the support of the child such sum at such intervals as the judge considers proper, having regard to the means of the father and to any means the child may have for his own support. R.S.O. 1960, c. 105, s. 2 (1), *amended*.

When child  
deemed to  
have been  
deserted

(2) A child shall be deemed to have been deserted by his father within the meaning of this section when the child is under the age of sixteen years and the father has, without adequate cause, refused or neglected to supply the child with food or other necessities when able so to do. R.S.O. 1960, c. 105, s. 2 (3).

Custody of  
child

(3) The judge may in an order made under this section make provision as to the custody of the child and the right of access thereto of any person, or of either parent, having regard to the welfare of the child and to the conduct of the parent or person and to the wishes of the mother as well as of the father, and may at any time alter, vary or discharge any provision so made.

Contempt  
of custody  
orders

(4) Every person who wilfully resists any provision as to custody and right of access in an order made under this section is guilty of contempt and on summary conviction before the judge or any judge in the court in which the order was made is liable to a fine of not more than \$100 or to imprisonment for a term of not more than three months, or to both. R.S.O. 1960, c. 105, s. 2 (4, 5), *amended*.

Warrant  
for  
arrest

**4.** Where the justice of the peace before whom an information is laid under section 2 or 3 is satisfied that the husband or father, as the case may be, is about to quit the territorial jurisdiction of the justice of the peace, the justice of the peace may, with the written approval of a judge, issue a warrant in Form 3 for the arrest of the husband or father. R.S.O. 1960, c. 105, s. 3, *amended*.

Interpre-  
tation  
R.S.O. 1970,  
c. 364

**5.**—(1) In this section, “officer” means a probation officer appointed under *The Probation Act* or a local director of a children’s aid society, and includes any official of the Department of Social and Family Services or of any municipality who is designated by the Minister of Social and Family Services as an officer for the purposes of this section.

Order to  
report to  
officer

(2) Where an order for the payment of maintenance or support has been made under this Act and the person for whose benefit the order was made is a public charge or where the judge who made the order is of opinion that if default should occur in complying

with the order the person for whose benefit the order was made may become a public charge, the judge may order the person required to make the payments to report to such officer as he designates at such times and during such period and at such place as he considers necessary to ensure that the order for payment will be complied with.

(3) The judge may at any time by further order designate another officer for the purposes of subsection 2. Change of officer

(4) Every person who without reasonable excuse fails to report to an officer when ordered so to do under this section is guilty of an offence and on summary conviction is liable to imprisonment for a term of not more than three months. Offence

(5) An order made under this Act that is certified by the judge who made it or a certificate of a judge as to the making of such an order by him is receivable in evidence in a prosecution under subsection 4 as proof of the making of the order without proof of the office or signature of the judge so certifying. R.S.O. 1960, c. 105, s. 4, *amended*. Certificate of order

**6.** An information under this Act may be laid by a wife or child or by a person having the care and custody of a child, or, with the consent of the Crown attorney, by any other person. R.S.O. 1960, c. 105, s. 5. Who may lay information

**7.** The judge may in any order under this Act set a time limit, not exceeding thirty days, within which each sum of money ordered to be paid and the costs shall be paid. R.S.O. 1960, c. 105, s. 6, *amended*. Time limit

**8.—(1)** Where a judge is satisfied that,

- (a) the circumstances of any of the parties have changed since the making of an order under this Act; or
- (b) evidence has become available that was not available upon the previous hearing,

Rehearing of application

he may direct a rehearing of the application.

(2) Upon the rehearing of the application any order previously made may be confirmed, rescinded or varied. Order may be confirmed, etc.

(3) In this section, "judge" means,

- (a) the judge who made the order; or
- (b) if such judge is dead, ill or absent, any other judge presiding in the provincial court (family division) having such jurisdiction in the same locality that an information similar to the original information could be laid before him; or

Interpretation

- (c) any judge presiding in the provincial court (family division) having jurisdiction in the locality in which the person in whose favour the order is made resides. R.S.O. 1960, c. 105, s. 7.

Applications  
may be  
heard in  
private

**9.** An application under this Act may be heard by the judge in private. R.S.O. 1960, c. 105, s. 9, *amended*.

Payment of  
expenses

**10.** Where it is necessary to incur expense in serving a warrant or summons or in carrying out any of the provisions of this Act, and the informant is unable to pay such expenses, they may be paid out of the moneys that are appropriated by the Legislature for that purpose. R.S.O. 1960, c. 105, s. 10.

Provisional  
order

**11.—(1)** Where an information has been laid against a person under this Act and that person fails to appear to answer to the summons, a judge presiding in the provincial court (family division) having jurisdiction to hear the complaint in the locality in which the information was laid may, instead of issuing a warrant to compel the person's attendance or taking any other action that might be taken under this Act or otherwise, in his absence and without further notice to him, hear the evidence and, if satisfied of the justice of the complaint and that the person is resident in another locality in Ontario, make any order that he might have made if the person had appeared before him to answer to the complaint, but in such case the order is provisional only and has no effect unless and until confirmed by a judge presiding in the provincial court (family division) having jurisdiction in the locality in which the person resides.

Depositions  
and trans-  
cripts

(2) If the testimony of a witness at the hearing is not taken in shorthand, it shall be put into the form of a deposition which shall be read over and signed by the witness and by the judge presiding at the hearing.

Transmission  
of docu-  
ments

(3) Where an order is made under subsection 1, the judge shall send to a judge presiding in the provincial court (family division) having jurisdiction in the locality in which the person against whom the order is made resides,

- (a) a copy of the information certified by the judge to be a true copy;
- (b) a copy of the order certified by the judge to be a true copy;
- (c) a copy of the transcript of the evidence certified by the court stenographer to be a true copy, or, where the evidence was not taken in shorthand, the depositions referred to in subsection 2;

(d) a statement, signed by the judge containing such information as is available for facilitating the identification of the person against whom the order is made and ascertaining his whereabouts.

(4) The judge to whom the documents mentioned in subsection 3 are sent may issue a summons calling upon the person named in the order to appear and show cause why the order should not be confirmed.

Issue of  
summons

(5) At the hearing, it shall be open to the person named in the order to raise any defence that he might have raised in the original proceedings, but, if on appearing he fails to satisfy the judge that the order ought not to be confirmed, the judge may confirm the order without modification or with such modification as he considers proper having regard to all the evidence.

Confirmation  
of order

(6) Where the person mentioned in the order appears before the judge and satisfies him that for the purpose of any defence or for the taking of further evidence or otherwise it is necessary to remit the case to the judge who made the order, the judge may so remit the case and adjourn the proceedings for that purpose.

Adjourn-  
ment for  
further  
evidence

(7) Where the person named in the order appears before the judge and the judge, having regard to all the evidence, is of the opinion that the order ought not to be confirmed, he may remit the case to the judge who made the order together with a statement signed by him of his reasons for so doing, and in that event the judge who made the order may proceed with the case as though the order had not been made.

Where  
order not  
confirmed

(8) Where an order has been confirmed under this section, it may be varied or rescinded in like manner as if it were made originally by the confirming judge, and, where on an application for variation or rescission the judge is satisfied that it is necessary to remit the case to the judge who made the order for the purpose of taking further evidence, he may so remit the case and adjourn the proceedings for that purpose.

Variation  
and rescis-  
sion of  
order,  
remission  
of case,  
after con-  
firmation

(9) No appeal lies from a provisional order made under this section, but, where an order is confirmed under this section, the person bound thereby has the same right of appeal as he would have if the order had been made under section 2 or 3.

Right of  
appeal

(10) An order that has been confirmed under this section shall be deemed to be an order of the judge who confirmed it and the officers of his court shall take all proper steps to enforce it.

Effect of  
confirma-  
tion

(11) Any document under this section purporting to be signed by a judge or by a court stenographer shall, until the contrary is proved, be deemed to have been so signed without proof of the

Proof of  
documents;  
admissibility  
in evidence



signature or official character of the person appearing to have signed it and any such document is admissible in evidence. R.S.O. 1960, c. 105, s. 11, *amended*.

Enforcement  
of order

**12.**—(1) When default is made in the payment of a sum of money ordered to be paid under this Act, a justice of the peace,

- (a) may from time to time summon the person in default to explain the default; and
- (b) if the service of the summons is proved and the person summoned does not appear and sufficient reason for his absence is not given, or if it appears that the summons could not be served, may issue a warrant for his arrest,

and, if upon the hearing before a judge the person in default fails to satisfy him that the default is due to inability to pay, he may order and adjudge the person to be imprisoned for a term of not more than three months unless the sum payable under the first-mentioned order, or such lesser sum as the judge designates, is sooner paid.

Transmis-  
sion of order  
to facilitate  
enforcement

(2) When default is made in the payment of a sum of money ordered to be paid under this Act, the judge who made the order may at any time send a duplicate original of the order, together with a statement showing such information as he possesses of the circumstances of the case and for facilitating the identification of the person against whom the order was made and the location of his place of residence, to any judge presiding in the provincial court (family division) having jurisdiction in the locality in which such person resides and upon receipt thereof the judge shall summon the person in default to explain the default and may, if he is satisfied as to the justice of the order, exercise any of the powers mentioned in subsection 1, and, when he has dealt with the matter, he shall send a report thereon to the judge who made the order. R.S.O. 1960, c. 105, s. 12 (1, 2), *amended*.

R.S.O. 1970,  
c. 450  
Application  
of 1953-54,  
c. 51 (Can.)

(3) Notwithstanding subsection 1 of section 3 of *The Summary Convictions Act*, section 625 of the *Criminal Code* (Canada) does not apply to an order for imprisonment made under this section. R.S.O. 1960, c. 105, s. 12 (3).

Application

**13.** Except as otherwise provided, proceedings under this Act shall be in accordance with *The Summary Convictions Act*. R.S.O. 1960, c. 105, s. 13.

Appeals

**14.** An appeal from an order made under this Act may be heard at such time as the judge of the court to which the appeal is taken may appoint and may in the discretion of that judge be heard in chambers. R.S.O. 1960, c. 105, s. 14, *amended*.

**15.**—(1) No appeal or other proceeding by way of *certiorari*, motion to quash, prohibition, mandamus or otherwise suspends the operation of any order for the payment of money made under this Act until the appeal or other proceeding is disposed of, unless an interim order suspending in whole or in part the operation of such order for payment is made upon application to the court in which the appeal or other proceeding is pending. Payment of money not affected pending appeal

(2) If a person ordered to pay money under this Act is in default, any appeal or other proceeding taken with respect to such order may be dismissed. If default in payment occurs R.S.O. 1960, c. 105, s. 15.

**16.** Any order for payment of money may also be filed with the clerk of any small claims court and enforced by garnishment proceedings, by execution and by judgment summons as in the case of a judgment in the small claims court. Enforcement of order for payment of money R.S.O. 1960, c. 105, s. 16, *amended*.

## FORM 1

*The Deserted Wives' and Children's Maintenance Act*

(Section 2 (1) )

## SUMMONS

County (or District)

of .....

To A. B., of.....

Whereas application has this day been made by your wife (or child), C. B., to the undersigned Justice of the Peace for ..... for a summons under *The Deserted Wives' and Children's Maintenance Act*, for that you have wilfully refused or neglected to maintain your wife (or your wife and family, *as the case may be*) or your child, and have deserted your wife or child. These are, therefore, to command you to appear before a judge presiding in the provincial court (family division) (*as the case may be*) at ..... on the ..... day after the service hereof, at the hour of ..... in the ..... noon, to show cause why an order should not be made against you, to pay to your wife for her support (or for the support of her and your family, *as the case may be*, or to your child for his support), such sum as is considered to be in accordance with your means and with the means of your wife (or child).

Given under my hand and seal this ..... day of ....., 19....

..... (L.S.)  
Justice of the Peace.R.S.O. 1960, c. 105, Form 1, *amended*.

## FORM 2

*The Deserted Wives' and Children's Maintenance Act*

(Section 2(1) )

## ORDER

County (or District)

of .....

Upon reading the summons dated the ..... day of ..... 19...., issued by ..... Justice of the Peace for ....., upon the application of C. B., wife or child of A. B., under *The Deserted Wives' and Children's Maintenance Act*, and upon hearing all the parties (*or as the case may be*) and the evidence adduced, and it appearing that the said C. B. is entitled to the benefit of the said Act:

I do hereby order that the said A. B. do pay hereafter to his wife, or her agent (or his child or his child's agent), authorized in writing, at ..... the sum of \$..... for her support (or for the support of her and the family of the said A. B. or for support of the child), the first payment to be made on the ..... day of ..... 19...., together with the costs of these proceedings, which amount to \$....., which shall be paid on or before the ..... day of ..... 19....

Given under my hand and seal this ..... day of ....., 19....

..... (L.S.)  
JudgeR.S.O. 1960, c. 105, Form 2, *amended*.

FORM 3

*The Deserted Wives' and Children's Maintenance Act*

(Section 4)

WARRANT TO ARREST

Province of Ontario

of

To the peace officers in the said .....

Whereas an information has been laid against .....  
of ..... under *The Deserted Wives' and Children's Maintenance Act*;  
and whereas I am satisfied that the said .....  
..... is about to quit my territorial jurisdiction;

This is therefore to command you, in Her Majesty's name, forthwith to arrest  
the said ..... and bring him before  
..... to be dealt with according to law.

Dated at ..... this ..... day of ....., 19....  
.....  
Justice of the Peace

The issue of the above Warrant to Arrest is approved by me.

Dated at ..... this ..... day of ....., 19....  
.....  
Judge

R.S.O. 1960, c. 105, Form 3, *amended*.

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CHAPTER 129

The Devolution of Estates Act

1. In this Act,

Interpre-  
tation

- (a) “court” means the Supreme Court;
- (b) “judge” means a judge of the Supreme Court;
- (c) “mental incompetency” means the condition of mind of a mentally incompetent person;
- (d) “mentally incompetent person” means a person,
  - (i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or
  - (ii) who is suffering from such disorder of the mind, that he requires care, supervision and control for his protection and the protection of his property;
- (e) “personal representative” means an executor, an administrator, or an administrator with the will annexed. R.S.O. 1960, c. 106, s. 1.

2.—(1) All real and personal property that is vested in a person without a right in any other person to take by survivorship, on his death, whether testate or intestate and notwithstanding any testamentary disposition, devolves to and becomes vested in his personal representative from time to time as trustee for the persons by law beneficially entitled thereto, and, subject to the payment of his debts and so far as such property is not disposed of by deed, will, contract or other effectual disposition, it shall be administered, dealt with and distributed as if it were personal property not so disposed of.

Devolution  
to personal  
representa-  
tive of  
deceased

(2) This section applies to property over which a person executes by will a general power of appointment as if it were property vested in him.

Idem,  
where under  
appoint-  
ment

(3) This section does not apply to estates tail or to the personal property, except chattels real, of a person who, at the time of his death, is domiciled out of Ontario. R.S.O. 1960, c. 106, s. 2.

Exceptions

3. The enactments and rules of law relating to the effect of probate or letters of administration as respects personal property and as respects the dealing with personal property before probate or administration and as respects the payment of costs of

Application  
of enact-  
ments as to  
probate, etc.

administration and other matters in relation to the administration of personal estate and the powers, rights, duties and liabilities of personal representatives in respect of personal estate apply to real property vesting in them, so far as the same are applicable as if that real property were personal property, save that it is not lawful for some or one only of several joint personal representatives without the authority of a judge to sell or transfer real property. R.S.O. 1960, c. 106, s. 3.

Real and personal property assimilated in matters of administration

**4.** Subject to the other provisions of this Act, in the administration of the assets of a deceased person, his real property shall be administered in the same manner, subject to the same liability for debts, costs and expenses and with the same incidents as if it were personal property, but nothing in this section alters or affects as respects real or personal property of which the deceased has made a testamentary disposition the order in which real and personal assets are now applicable to the payment of funeral and testamentary expenses, the costs and expenses of administration, debts or legacies, or the liability of real property to be charged with the payment of legacies. R.S.O. 1960, c. 106, s. 4.

Payment of debts out of residuary estate  
R.S.O. 1970, c. 499

**5.** Subject to section 37 of *The Wills Act*, the real and personal property of a deceased person comprised in a residuary devise or bequest, except so far as a contrary intention appears from his will or any codicil thereto, is applicable rateably, according to their respective values, to the payment of his debts, funeral and testamentary expenses and the cost and expenses of administration. R.S.O. 1960, c. 106, s. 5.

How far personal representatives to be deemed "heirs"

**6.** When any part of the real property of a deceased person vests in his personal representative under this Act, such personal representative, in the interpretation of any Act of the Legislature or in the construction of any instrument to which the deceased was a party or under which he is interested, shall, while the estate remains in him, be deemed in law his heir, as respects such part, unless a contrary intention appears, but nothing in this section affects the beneficial right to any property or the construction of words of limitation of any estate in or by any deed, will or other instrument. R.S.O. 1960, c. 106, s. 6.

Trust estates and interests of mortgagees

**7.** Where an estate or interest of inheritance in real property is vested on a trust or by way of mortgage in a person solely, it, on his death, notwithstanding any testamentary disposition, devolves to and becomes vested in his executor or administrator in like manner as if it were personal estate vesting in him, and accordingly all the like powers for one only of several joint executors or administrators as well as for a single executor or administrator and for all the executors and administrators together to dispose of and otherwise deal with it belong to the

deceased's executor or administrator with all the like incidents but subject to all the like rights, equities and obligations as if it were personal estate vesting in him, and for the purposes of this section the executor or administrator of the deceased shall be deemed in law his heirs and assigns within the meaning of all trusts and powers. R.S.O. 1960, c. 106, s. 7.

**8.**—(1) Nothing in this Act takes away a widow's right to dower, but a widow may by deed or instrument in writing, attested by at least one witness, elect to take her interest under this Act in her husband's undisposed-of real property in lieu of all claim to dower in respect of the real property of which her husband was at any time seised or to which at the time of his death he was beneficially entitled, and, unless she so elects, she is not entitled to share in the undisposed-of real property. Saving as to dower and right of election

(2) The personal representative of the deceased may, by notice in writing, require the widow to make her election, and, if she fails to execute and deliver a deed or instrument of election to him within six months after the service of the notice, she shall be deemed to have elected to take her dower. Notice to elect

(3) Where the widow is an infant or a mentally incompetent person, the right of election may be exercised on her behalf by the Official Guardian with the approval of a judge or by some person authorized by a judge to exercise it, and the Official Guardian or the person so authorized may, for and in the name of the widow, give all notices and do all acts necessary or incidental to the exercise of such right. Where widow under disability

(4) Where the widow is a patient in a psychiatric facility under *The Mental Health Act* and the Public Trustee is committee of her estate, he is entitled to exercise on her behalf the power of election conferred by this section. R.S.O. 1960, c. 106, s. 8. Widow patient in psychiatric facility  
R.S.O. 1970, c. 269

**9.**—(1) Where there is no legal personal representative of a deceased mortgagor of freehold property, it is sufficient for the purposes of an action for the foreclosure of the equity of redemption in, or for the sale of such property that the person beneficially entitled under the last will and testament, if any, of the deceased mortgagor, or under the provisions of this Act, to such property or the proceeds thereof be made defendant to such action, and it is not necessary that a legal personal representative of the deceased mortgagor be appointed or be made a defendant thereto unless it is otherwise ordered by the court in which the action is brought, but, if during the pendency of such action, the equity of redemption devolves upon and becomes vested in a legal personal representative of the mortgagor, he shall be made a party to the action. Who to be defendants in action for foreclosure where no personal representative of mortgagor

(2) In subsection 1, "mortgagor" includes the assignee of a mortgagor and any person entitled to or interested in the equity of redemption. R.S.O. 1960, c. 106, s. 9. Interpretation



Application  
for order  
allowing sale  
free of  
curtesy or  
dower

**10.**—(1) Where the personal representative desires to sell any real property devolving upon him free from curtesy or dower, he may apply to a judge, who may, in a summary way, and upon notice to be served personally unless the judge otherwise directs, order that it be sold free from the right of the tenant by the curtesy or doweress, and in making such order regard shall be had to the interests of all parties.

Effect

(2) If a sale free from such curtesy or dower is ordered, all the right and interest of the tenant by the curtesy or doweress pass thereby, and no conveyance or release thereof to the purchaser shall be required, and the purchaser, his heirs and assigns, hold the real property freed and discharged from the estate or interest of the tenant by the curtesy or doweress.

Payment in  
satisfaction  
of dower or  
curtesy

(3) The judge may direct the payment of such sum in gross out of the purchase money to the person entitled to curtesy or dower as he considers, upon the principles applicable to life annuities, a reasonable satisfaction for such estate or interest, or he may direct the payment to the person entitled of an annual sum, or of the income or interest to be derived from the purchase money or any part thereof, as he considers just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as he considers necessary. R.S.O. 1960, c. 106, s. 10.

Widow's  
preferential  
share where  
estate does  
not exceed  
\$20,000

**11.**—(1) The real and personal property of every man dying intestate and leaving a widow, whether or not he leaves issue, where the net value of such real and personal property does not exceed \$20,000, belongs to his widow absolutely and exclusively.

Where estate  
exceeds  
\$20,000

(2) Where the net value exceeds \$20,000, the widow is entitled to \$20,000 part thereof, absolutely and exclusively, and has a charge thereon for such sum with interest thereon from the date of the death of the intestate at 4 per cent per annum until payment.

Widow's  
share in  
remainder  
of estate

(3) The provision for the widow made by this section is in addition and without prejudice to her interest and share in the residue of the real and personal property of the intestate remaining after payment of such sum of \$20,000 and interest in the same way as if such residue had been the whole of the intestate's real and personal property and this section had not been enacted. R.S.O. 1960, c. 106, s. 11 (1-3); 1960-61, c. 22, s. 1.

Where estate  
consists of  
real  
property

(4) Where the estate consists in whole or in part of real property, this section applies only if the widow elects under section 8 to take an interest in her husband's undisposed-of real property in lieu of dower.

Interpre-  
tation

(5) In this section, "net value" means the value of the real and personal property after payment of the charges thereon and the debts, funeral expenses and expenses of administration, including succession duty. R.S.O. 1960, c. 106, s. 11 (4, 5).

**12.**—(1) The real and personal property of every woman dying intestate and leaving a widower whether or not she leaves issue shall, where the net value of such real and personal property does not exceed \$20,000, belong to her widower absolutely and exclusively.

Widower's preferential share where estate does not exceed \$20,000

(2) Where the net value exceeds \$20,000, the widower is entitled to \$20,000 part thereof, absolutely and exclusively, and has a charge thereon for such sum with interest thereon from the date of the death of the intestate at 4 per cent per annum until payment.

Where estate exceeds \$20,000

(3) The provision for the widower made by this section is in addition and without prejudice to his interest and share in the residue of the real and personal property of the intestate remaining after payment of such sum of \$20,000 and interest in the same way as if such residue had been the whole of the intestate's real and personal property and this section had not been enacted. R.S.O. 1960, c. 106, s. 12 (1-3); 1960-61, c. 22, s. 2.

Widower's share in remainder of estate

(4) This section applies only where the husband has not elected under section 30 to take such interest in the real and personal property of his wife as he would have taken if this Act had not been passed.

Application

(5) In this section, "net value" means the value of the real and personal property after payment of the charges thereon and the debts, funeral expenses, and expenses of administration, including succession duty. R.S.O. 1960, c. 106, s. 12 (4, 5).

Interpretation

**13.** Sections 11 and 12 do not apply to the surviving spouse of a person who dies intestate and is survived by one or more infant children by a former marriage. 1966, c. 45, s. 1 (1).

Application of ss. 11 and 12

**14.**—(1) Real property not disposed of, conveyed to, divided or distributed among the persons beneficially entitled thereto under section 22 by the personal representative within three years after the death of the deceased is, subject to *The Land Titles Act* in the case of land registered under that Act and subject to subsections 4 and 5 of section 50 of *The Registry Act*, and subject as hereinafter provided, at the expiration of that period, whether probate or letters of administration have or have not been taken, thenceforth vested in the persons beneficially entitled thereto under the will or upon the intestacy or their assigns without any conveyance by the personal representative, unless such personal representative, if any, has registered, in the proper registry or land titles office, a caution in Form 1 under his hand, and, if a caution is so registered, the real property mentioned therein does not so vest for three years from the time of the registration of the caution or of the last caution if more than one was registered. 1966, c. 45, s. 2 (1).

Vesting of real estate not disposed of within 3 years  
R.S.O. 1970, cc. 234, 409

## Verification

R.S.O. 1970,  
cc. 409, 234

(2) The execution of every caution shall be verified by the affidavit of a subscribing witness in the manner prescribed by *The Registry Act* or *The Land Titles Act*, as the case may be. R.S.O. 1960, c. 106, s. 13 (2).

## Effect

(3) A caution registered or reregistered under this section or under section 16 is effectual only as to the real property mentioned in the caution.

## Withdrawal of caution

(4) The personal representative, before the expiration of the three years, may register a certificate in Form 2 withdrawing the caution in respect of the real property described in the certificate, and, upon registration of the certificate, the real property described therein shall be treated as if the caution had expired. 1966, c. 45, s. 2 (2).

## Verification

(5) The certificate of withdrawal shall be verified by an affidavit of a subscribing witness in Form 3.

## Renewal of caution

(6) Before a caution expires it may be reregistered and so on from time to time as long as the personal representative considers it necessary, and every caution continues in force for three years from the time of its registration or reregistration. R.S.O. 1960, c. 106, s. 13 (5, 6).

Ordinary  
rights of  
executors,  
etc.,  
preserved  
R.S.O. 1970,  
c. 470

**15.** Nothing in section 14 derogates from any right possessed by an executor or administrator with the will annexed under a will or under *The Trustee Act* or from any right possessed by a trustee under a will. R.S.O. 1960, c. 106, s. 14.

Registration  
of caution  
after three  
years from  
death of  
testator

**16.—**(1) Where a personal representative has not registered a caution within the proper time after the death of the deceased or has not reregistered a caution within the proper time, he may register or reregister the caution, as the case may be, provided he registers therewith,

- (a) the affidavit of execution; and
- (b) a further affidavit stating that he finds or believes that it is or may be necessary for him to sell the real property of the deceased, mentioned in the caution or part thereof, under his powers and in fulfilment of his duties, and, as far as they are known to him, the names of all persons beneficially interested in the real property, and whether any, and, if so, which of them, are infants or mentally incompetent persons; and
- (c) the consent in writing of every adult and of the Official Guardian on behalf of every infant and mentally incompetent person whose property or interest would be affected, and an affidavit verifying such consent; or

- (d) in the absence and in lieu of such consent, an order of a judge of the Supreme Court or of the county or district court of the county or district in which the property or a part of it is situate, or the certificate of the Official Guardian authorizing the caution to be registered or reregistered, which order or certificate the judge or Official Guardian may make with or without notice on such evidence as satisfies him of the propriety of permitting the caution to be registered or reregistered, and the order or certificate to be registered does not require verification and shall not be rendered null by any defect of form or otherwise. R.S.O. 1960, c. 106, s. 15 (1); 1966, c. 45, s. 3.

(2) This section extends to cases where a grant of probate of the will or of administration to the estate of the deceased may not have been made within the period after the death of the testator or intestate within which a caution is required to be registered. Application of section

(3) Where a caution is registered or reregistered under this section, it has the same effect as a caution registered within the proper time after the death of the deceased and of vesting or revesting, as the case may be, the real property of the deceased in his personal representative, save as to persons who in the meantime have acquired rights for valuable consideration from or through a person beneficially entitled, and save also and subject to any equities of any non-consenting person beneficially entitled, or of a person claiming under him, for improvements made after the time within which the personal representative might, without any consent, order or certificate, have registered or reregistered a caution, if his real property is afterwards sold by the personal representative. Effect of such registration

(4) Where there are two or more personal representatives, it is sufficient if a caution or the affidavit mentioned in clause *b* of subsection 1 is signed or made by one of such personal representatives. R.S.O. 1960, c. 106, s. 15 (2-4). Signature to caution

**17.** Where a caution has been registered or reregistered under any enactment repealed and not re-enacted by this Act and is still in force, such caution has the same effect as if such enactment had not been repealed and may be registered in the manner provided by section 14. R.S.O. 1960, c. 106, s. 16. Effect of repealing enactment

**18.** Any person beneficially entitled to any real property affected by the registration or reregistration of a caution may apply to a judge to vacate the registration or reregistration, and the judge, if satisfied that the vesting of any such real property in such person or of any property of the deceased in any other of the Vacating caution



persons beneficially entitled ought not to be delayed, may order that the registration or reregistration be vacated as to such property, and every caution, the registration or reregistration of which is so vacated, thereafter ceases to operate. R.S.O. 1960, c. 106, s. 17.

Land  
in two or  
more  
persons

**19.** Where real property becomes vested under this Act in two or more persons beneficially entitled under this Act, they take as tenants in common in proportion to their respective rights, unless in the case of a devise they take otherwise under the will of the deceased. R.S.O. 1960, c. 106, s. 18.

Sales where  
infants in-  
terested

**20.**—(1) Where an infant is interested in real property that but for this Act would not devolve on the personal representative, no sale or conveyance is valid under this Act without the written approval of the Official Guardian, or, in the absence of such consent or approval, without an order of a judge.

Local guar-  
dians

(2) A judge may appoint the local judge of a county or district or the local master therein as local guardian of infants in such county or district during the pleasure of the judge, with authority to give such written approval instead of the Official Guardian, and the Official Guardian and local guardian are subject to such rules as the court may make in regard to their authority and duties under this Act. R.S.O. 1960, c. 106, s. 19.

Power of  
personal  
representa-  
tive over  
real  
property

**21.** Except as otherwise provided in this Act, the personal representative of a deceased person has power to dispose of and otherwise deal with the real property vested in him by virtue of this Act, with the like incidents, but subject to the like rights, equities and obligations, as if the real property were personal property vested in him. R.S.O. 1960, c. 106, s. 20.

Powers of  
executors  
and adminis-  
trators as to  
selling and  
conveying  
real estate

**22.**—(1) The powers of sale conferred by this Act on a personal representative may be exercised for the purpose not only of paying debts but also of distributing or dividing the estate among the persons beneficially entitled thereto, whether there are or are not debts, and in no case is it necessary that the persons beneficially entitled concur in any such sale except where it is made for the purpose of distribution only.

Concur-  
rence of  
heirs and  
devisees

(2) Except with the approval of the majority of the persons beneficially entitled thereto representing together not less than one-half of all the interests therein, including the Official Guardian acting on behalf of an infant or mentally incompetent person, no sale of any such real property made for the purpose of distribution only is valid as respects any person beneficially entitled thereto unless he concurs therein, but, where a mentally incompetent person is beneficially entitled or where there are

other persons beneficially entitled whose consent to the sale is not obtained by reason of their place of residence being unknown or where in the opinion of the Official Guardian it would be inconvenient to require the concurrence of such persons, the Official Guardian may, upon proof satisfactory to him that the sale is in the interest and to the advantage of the estate of the deceased person and the persons beneficially interested therein, approve the sale on behalf of such mentally incompetent person and non-concurring persons, and any such sale made with the written approval of the Official Guardian is valid and binding upon such mentally incompetent person and non-concurring persons, and for this purpose the Official Guardian has the same powers and duties as he has in the case of infants, but in any case a judge may dispense with the concurrence of the persons beneficially entitled or any or either of them.

(3) The personal representative has power, with the concurrence of the adult persons beneficially entitled thereto, and with the written approval of the Official Guardian on behalf of infants or mentally incompetent persons, if any, so entitled, to convey, divide or distribute the estate of the deceased person or any part thereof among the persons beneficially entitled thereto according to their respective shares and interests therein. 1960, c. 106, s. 4 (1-3).

Powers of personal representative as to dividing estate among persons entitled

(4) Where a person beneficially entitled is a patient in a psychiatric facility under *The Mental Health Act* and the Public Trustee is committee of his estate, the concurrence and approval required by subsections 2 and 3 may be given by the Public Trustee on behalf of such patient. 1960, c. 106, s. 21 (4), amended.

Concurrence where person is a patient in a psychiatric facility R.S.O. 1970, c. 269

(5) Upon the application of the personal representative or of any person beneficially entitled, the court may, before the expiration of three years from the death of the deceased, direct the personal representative to divide or distribute the estate or any part thereof to or among the persons beneficially entitled according to their respective rights and interests therein.

Distribution by order within three years from death

(6) The power of division conferred by subsection 3 may also be exercised, although all the persons beneficially interested do not concur, with the written approval of the Official Guardian, which may be given under the same conditions and with the like effect as in the case of a sale under subsection 2.

Exercise of power of division without concurrence

(7) Section 21 and this section do not apply to an administrator where the letters of administration are limited to the personal property, exclusive of the real property, and do not derogate from any right possessed by a personal representative independent of this Act, but an executor shall not exercise the powers conferred by this section until he has obtained probate of the will except with the approval of a judge.

Sections 21 and 22 not to apply to administrators of personal estate only

Conveyance  
by personal  
representa-  
tive without  
an order

(8) The powers of a personal representative under subsection 2, 3 or 6 have heretofore been and shall hereafter be exercisable during the period of three years from the death of the deceased without an order of a judge, provided that,

- (a) real property conveyed, divided or distributed by virtue of such powers to or among the persons beneficially entitled thereto, shall be deemed to have been and to be liable for the payment of the debts of the deceased owner as if no conveyance, division or distribution had been made, even though it has subsequently during such three-year period been conveyed to a purchaser or purchasers in good faith and for value, but, in the case of such purchaser or purchasers, such liability shall only continue after the expiry of such three-year period if some action or legal proceeding has been instituted by the creditor, his assignee or successor to enforce the claim and a *lis pendens* or a caution has, before such expiry, been registered against the property; and that
- (b) although such liability has applied and shall apply as aforesaid in respect of real property so conveyed, divided or distributed, any such purchaser, in good faith and for value, shall be deemed to have had and to have a right to relief over against the persons beneficially entitled, and where such conveyance, division or distribution was made by the personal representative with knowledge of the debt in respect of which claim is made, or without due advertisement for creditors, then against such personal representative; and that
- (c) upon the expiration of such three-year period where no *lis pendens* or caution has been registered, subsection 2 of section 25 and section 27 apply as if such real property had become vested in the person beneficially entitled thereto under section 14. R.S.O. 1960, c. 106, s. 21 (5-8).

Effect of  
accepting  
share of pur-  
chase money

**23.** The acceptance by an adult of his share of the purchase money in the case of a sale by a personal representative that has been made without the written approval of the Official Guardian, where such approval is required, is a confirmation of the sale as to him. R.S.O. 1960, c. 106, s. 22.

Protection of  
*bona fide*  
purchasers  
from per-  
sonal repre-  
sentatives

**24.** A person purchasing in good faith and for value real property from a personal representative in a manner authorized by this Act is entitled to hold it freed and discharged from any debts or liabilities of the deceased owner, except such as are specifically charged thereon otherwise than by his will, and from all claims of the persons beneficially entitled thereto, and is not bound to see to the application of the purchase money. R.S.O. 1960, c. 106, s. 23.

**25.**—(1) A person purchasing real property in good faith and for value from a person beneficially entitled, to whom it has been conveyed by the personal representative, by leave of a judge, is entitled to hold it freed and discharged from any debts and liabilities of the deceased owner, except such as are specifically charged thereon otherwise than by his will, but nothing in this section affects the rights of creditors as against the personal representative personally, or as against any person beneficially entitled to whom real property of a deceased owner has been conveyed by the personal representative.

Protection of  
*bona fide*  
purchasers  
from  
beneficiary

(2) Real property that becomes vested in a person beneficially entitled thereto under section 14 continues to be liable to answer the debts of the deceased owner so long as it remains vested in such person, or in any person claiming under him, not being a purchaser in good faith and for valuable consideration, as it would have been if it had remained vested in the personal representative, and in the event of a sale thereof in good faith and for value by such person beneficially entitled he is personally liable for such debts to the extent of the proceeds of such real property. R.S.O. 1960, c. 106, s. 24.

Extent to  
which real  
property  
remains  
liable to  
debts and  
personal  
liability of  
beneficiary

**26.**—(1) The powers of a personal representative under this Act include,

Powers of  
personal re-  
presentative  
as to leasing  
and mort-  
gaging

- (a) power to lease from year to year while the real property remains vested in him;
- (b) power, with the approval of the majority of the persons beneficially entitled thereto representing together not less than one-half of all the interests therein including the Official Guardian acting on behalf of an infant or mentally incompetent person, to lease for a longer term;
- (c) power to mortgage for the payment of debts.

(2) The written approval of the Official Guardian to mortgaging is required where it would be required if the real property were being sold. R.S.O. 1960, c. 106, s. 25.

Approval of  
Official  
Guardian

**27.**—(1) A purchaser in good faith and for value of real property of a deceased owner that has become vested under section 14 in a person beneficially entitled thereto is entitled to hold it freed and discharged from the claims of creditors of the deceased owner except such of them of which he had notice at the time of his purchase.

Rights of  
purchaser in  
good faith  
against  
claims of  
creditors

(2) Nothing in subsection 1 affects the right of the creditor against the personal representative personally where he has permitted the real property to become vested in the person beneficially entitled to the prejudice of the creditor or against the person beneficially entitled. R.S.O. 1960, c. 106, s. 26.

Liability of  
personal  
representa-  
tive



Effect of  
illegitimacy

**28.**—(1) Subject to subsections 2 and 3, an illegitimate child or relative shall not share under any of the provisions of this Act. R.S.O. 1960, c. 106, s. 27; 1961-62, c. 34, s. 1 (1).

Intestacy of  
mother of  
illegitimate  
child

(2) Where the mother of an illegitimate child dies intestate as respects all or any of her real or personal property and does not leave any legitimate issue surviving her, the illegitimate child, or, if he is dead, his issue, is entitled to take any interest therein to which he or such issue would have been entitled if he had been born legitimate.

Intestacy of  
illegitimate  
child

(3) Where an illegitimate child dies intestate in respect of all or any of his real or personal property, his mother, if surviving, is entitled to take any interest therein to which she would have been entitled if the child had been born legitimate and she had been the only surviving parent. 1961-62, c. 34, s. 1 (2).

Cases of  
children  
advanced by  
settlement,  
etc.

**29.**—(1) If a child of an intestate has been advanced by the intestate by settlement or portion of real or personal property or both, and the same has been so expressed by the intestate in writing or so acknowledged in writing by the child, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal property of the intestate to be distributed under this Act, and if the advancement is equal to or greater than the amount of the share that the child would be entitled to receive of the real and personal property of the intestate, as so reckoned, then the child and his descendants shall be excluded from any share in the real and personal property of the intestate.

If advance-  
ment is not  
equal

(2) If the advancement is less than the share, the child and his descendants are entitled to so much only of the real and personal property as is sufficient to make all the shares of the children in the real and personal property and advancement to be equal, as nearly as can be estimated.

Value of  
property  
advanced,  
how  
estimated

(3) The value of any real or personal property so advanced shall be deemed to be that, if any, which has been acknowledged by the child by an instrument in writing, otherwise the value shall be estimated according to the value of the property when given.

Education,  
etc., not ad-  
vancement

(4) The maintaining or educating of, or the giving of money to, a child without a view to a portion or settlement in life shall not be deemed an advancement within the meaning of this Act. R.S.O. 1960, c. 106, s. 28.

Distribution  
of property  
of married  
woman  
dying  
intestate

**30.**—(1) Subject to section 12, the real and personal property, whether separate or otherwise, of a married woman in respect of which she dies intestate shall be distributed as follows: one-third to her husband if she leaves issue, and one-half if she leaves no issue, and, subject thereto, devolves as if her husband had predeceased her.

(2) A husband who, if this Act had not been passed, would be entitled to an interest as tenant by the curtesy in real property of his wife, may, by deed or instrument in writing executed and attested by at least one witness and delivered to the personal representative, if any, or, if there is none, deposited in the office of the Registrar of the Supreme Court at Toronto within six months after his wife's death, elect to take such interest in the real and personal property of his wife as he would have taken if this Act had not been passed, in which case the husband's interest therein shall be ascertained in all respects as if this Act had not been passed, and he is entitled to no further interest thereunder. R.S.O. 1960, c. 106, s. 29, *amended*.

Saving as to husband's interest in property of wife

**31.** Except as otherwise provided in this Act, the personal property of a person dying intestate shall be distributed as follows: one-third to the wife of the intestate and all the residue by equal portions among the children of the intestate and such persons as legally represent the children in case any of them died in his lifetime, and, if there are no children or any legal representatives of them, then two-thirds of the personal property shall be allotted to the wife and the residue thereof shall be distributed equally to every of the next of kindred of the intestate who are of equal degree and those who legally represent them, and for the purpose of this section the father and the mother and the brothers and the sisters of the intestate shall be deemed of equal degree; but there shall be no representations admitted among collaterals after brothers' and sisters' children, and, if there is no wife, then all such personal property shall be distributed equally among the children, and, if there is no child, then to the next of kindred in equal degree of or unto the intestate and their legal representatives and in no other manner; but, if there is only one child or there are legal representatives of only one child, the personal property of a person dying intestate shall be distributed as follows: one-half to the wife of the intestate and the other half to the child or the legal representatives of the child. R.S.O. 1960, c. 106, s. 30; 1961-62, c. 34, s. 2.

Distribution of personal estate

**32.** If after the death of a father any of his children die intestate without wife or children in the lifetime of the mother, every brother and sister and the representatives of them shall have an equal share with her, anything in section 31 to the contrary notwithstanding. R.S.O. 1960, c. 106, s. 31.

Children share with mother

**33.** Subject to section 53 of *The Trustee Act*, no such distribution shall be made until after one year from the death of the intestate, and every person to whom in distribution a share is allotted shall, if any debt owing by the intestate is afterwards sued for and recovered or otherwise duly made to appear, refund and pay back to the personal representative his rateable part of

Distribution not to be made for one year  
R.S.O. 1970, c. 470

that debt and of the costs of suit and charges of the personal representative by reason of such debt out of the part or share so allotted to him, thereby to enable the personal representative to pay and satisfy such debt, and shall give bond with sufficient sureties that he will do so. R.S.O. 1960, c. 106, s. 32.

Rules of  
procedure

**34.** Rules regulating the practice and procedure to be followed in all proceedings under this Act and a tariff of fees to be allowed and paid to solicitors for services rendered in such proceedings may be made by the Rules Committee, subject to the approval of the Lieutenant Governor in Council. R.S.O. 1960, c. 106, s. 33.

Appointment  
of deputy  
Official  
Guardian  
*pro tem*

**35.** The Lieutenant Governor in Council may appoint a deputy *pro tempore* of the Official Guardian for the purposes of this Act who shall have all the powers of the Official Guardian for such purposes. R.S.O. 1960, c. 106, s. 34.

Affidavits

**36.** Affidavits may be used in proceedings taken under this Act. R.S.O. 1960, c. 106, s. 35.

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FORM 1

*The Devolution of Estates Act*

(Section 14 (1) )

CAUTION

I, . . . . ., executor of (or administrator with the will annexed of, or administrator of) . . . . ., who died on or about the . . . . . day of . . . . ., 19. . . . ., certify that it may be necessary for me under my powers and in fulfilment of my duty as executor (or administrator) to sell the real property of the said . . . . . as hereinafter described, or part thereof,  
and of this all persons concerned are hereby required to take notice.

The real property to be affected by this caution is described as follows:  
(Describe the real property in a manner sufficient for registration under The Land Titles Act or The Registry Act, as the case may be.)

1966, c. 45, s. 4, part.

FORM 2

*The Devolution of Estates Act*

(Section 14 (4) )

CERTIFICATE OF WITHDRAWAL

I, ....., executor (or administrator) of  
....., hereby withdraw the caution heretofore regis-  
tered with respect to the real property hereinafter described: (*Describe the real  
property in a manner sufficient for registration under The Land Titles Act or The  
Registry Act, as the case may be.*)

1966, c. 45, s. 4, part.

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FORM 3

*The Devolution of Estates Act*

(Section 14 (5) )

AFFIDAVIT OF WITNESS

I, ....., of, etc., make oath and say: that I am well  
acquainted with ..... named in the above certificate;  
that I was present and did see the said certificate signed by the said  
.....; that I am a subscribing witness to the said  
certificate, and that I believe the said ..... is the person who  
registered the caution referred to in the said certificate.

Sworn, etc.

R.S.O. 1960, c. 106, Form 3.

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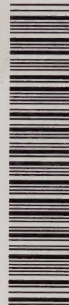




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